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## **Chapter 14.16A ADMINISTRATION AND PROCEDURES**

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## Part 1 General Provisions

### 14.16A.010 Purpose and Applicability. (Snoco)

The purpose of this chapter is to establish procedures for processing project permit applications and for adopting and amending comprehensive plans and development regulations. These procedures are intended to promote land use decisions that further the goals and policies of the comprehensive plan.

### 14.16A.015 Delegation of Authority. (14.12.010)

Wherever this title refers to any of the following agents or any other agents of authority in the City, such agent may delegate his authority in the implementation of this title to another competent agent acting in his behalf.

### 14.16A.017 Planning Agency Identified. (14.12.020)

The Planning Agency (Chapter 35A.63 RCW) for the City shall be composed of the following:

- (a) The Director of the Department of Planning and Community Development;
- (b) The Building Official;
- (d) The Director of the Department of Public Works;
- (d) Design Review Board;
- (f) The Lake Stevens Hearing Examiner;
- (g) The Lake Stevens Planning Commission;
- (h) The Lake Stevens Park Board; and
- (i) The Lake Stevens City Council.

### 14.16A.020 Compliance with Title 14 Required. (REDMOND)

(a) All land uses, activities, construction, clearing, grading, filling, development, intensification, and structural modifications or alterations shall comply with this title and all permits granted for the use, activity, construction, clearing, grading, filling, development, intensification, or structural modifications or alterations. All permits and approvals shall comply with this title. No permit or approval shall be issued for any parcel of land developed or divided in violation of Title 14.

(b) All divisions of land shall comply with this title. Any portion of a lot or lots that was used to calculate compliance with this title, standards, or regulations shall not be subsequently subdivided or segregated from such lot or lots or sold or transferred separately from such lot or lots.

(c) Violations and Penalties.

(1) Any person violating any provisions of Title 14 shall be subject to Title 17, Enforcement Code, and Chapter 14.28, Enforcement and Review.

(2) Any building, structure, development, activity, land use, or division of land, not in conformance with Title 14 and not a legal nonconformance or exempted by a policy governing existing nonconforming structures or uses, is declared to be unlawful, substandard, and a public nuisance, and is subject to the enforcement and abatement provisions in Title 17, Enforcement Code, and Chapter 14.28, Enforcement and Review.

### 14.16A.030 Vesting. (Redmond, Marysville)

(a) The purpose of this section is to identify certain points in the land use approval process at which an applicant's rights become "vested."

(b) Decision Criteria.

(1) Land Use Actions Requiring a Building Permit.

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(i) Unless otherwise specified in this section, the proponent of a land use action requiring a building permit shall be vested against enforcement of an ordinance implementing a change in Title 14 if a complete building permit application is submitted to the City prior to the effective date of the ordinance. A vested right shall not arise by virtue of an application for a conditional use permit, site plan review, administrative conditional use permit, variance, code amendment, right-of-way vacation, annexation, temporary use permit, Zoning Map amendment or any other application submitted prior to application for a building permit. Site plan review shall be completed and approved prior to issuance of the building permit.

(ii) An applicant must specifically identify a proposed land use or uses in the building permit application as the intended use of the proposed structure in order to vest the right to engage in a specific land use against an ordinance implementing a change in permitted land uses. Building permit applications which do not specifically identify the proposed use of the proposed structure shall not vest a right to engage in a specific land use against an ordinance prohibiting the use. Applications which depict a structure clearly appropriate for only a single land use shall be deemed to satisfy the requirement of identifying the proposed use.

(2) Land Use Actions Requiring a Subdivision. An applicant for approval of a subdivision shall be vested against enforcement of an ordinance implementing a change in Title 14 and other regulations affecting land development, at the time of filing a complete application.

(3) Land Use Actions Requiring a Shoreline Permit. An application for approval of a land use action requiring a shoreline permit, but not a building permit, shall be vested against enforcement of an ordinance implementing a change in shoreline regulations set forth in the Lake Stevens Shoreline Master Program if a complete substantial development permit application is submitted prior to the effective date of the ordinance. Land use actions requiring a building permit and a shoreline permit are governed by subsection (1) of this section.

(4) Land Use Actions Not Requiring a Building Permit. The application of changes in land use regulations to land uses not requiring a building permit shall be governed by Chapter 14.32, Nonconforming Situations. Proposed land uses requiring a shoreline permit are governed by subsection (3) of this section.

(5) Certain Regulatory Authority Not Affected. An application for a land use approval may be denied or approved with conditions under the authority of the City to protect and enhance the public safety, health and welfare, and under the State Environmental Policy Act (SEPA) and the City of Lake Stevens SEPA regulations and policies as of the date of vesting, notwithstanding the fact that the applicant has attained a vested right against enforcement of an ordinance implementing changes in regulations, codes or procedures affecting that land use action.

(c) Supplemental Information. Supplemental information required after acceptance and vesting of a complete application shall not affect the validity of the vesting for such application.

(d) Subsequent Permits. Vesting of an application does not vest any subsequently required permits, nor does it affect the requirements for vesting of subsequent permits or approvals, unless the original application was submitted and included a phasing plan and a site plan that depicts future buildings and obtained City approval for future build-out.

(e) Termination of Vested Rights.

(1) The vesting of rights with respect to a land use action requires a building permit against the enforcement of a change in regulations and codes of Title 14 shall terminate upon the expiration of 180 days following the date of application for a building permit. The application may also be extended in writing by the Building Official pursuant to authority granted by the International Building Code. The duration of vested rights acquired after issuance of a building permit shall be governed by the International Building Code provision regulating validity of an issued building permit. An extension of a permit or expiration of the permit shall have like effect upon vested rights.

(2) The applicant may request the Building Official to extend the time for action by the applicant for a period not exceeding 180 days upon a showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once.

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Preparation of environmental document required by the City under the authority of the State Environmental Policy Act (SEPA) and the processing of related applications required by Chapter 14.16A, Administration and Procedures, may constitute circumstances warranting extension of a building permit application if the applicant is found to be acting in a timely manner to achieve approval of a proposed land use action.

(3) The vesting of rights with respect to a land use action requiring a shoreline permit, but not a building permit, shall terminate 180 days following application for a shoreline permit, unless the shoreline permit is issued, provided that the Planning Director may, upon receipt of an application for extension, extend time for expiration of vesting due to circumstances beyond the control of the applicant as set forth in the preceding subsection for a period not to exceed an additional 180 days.

(4) Post-Annexation Vested Rights are pursuant to Section 14.16A.160.

(f) Fees.

(1) Impact Fees. Notwithstanding any other provisions of this section, the filing of a permit application shall not vest the applicant as to the impact fees in effect at the time of filing.

(2) Application and Plan Review Fees. Notwithstanding any other provisions of this section and pursuant to the Council resolution, fees paid for any application or plan review shall be those in effect at the time the application or plan review is requested.

#### **14.16A.040 Effect of Decisions. (Title 14.16 Part 5)**

(a) No Occupancy or Use of Property Until Requirements Fulfilled. Issuance of a land use permit authorizes the recipient to commence construction activity, subject to obtaining appropriate building permits, designed to support the approved land use. Actual commencement of the approved land use may not occur until all requirements of the permit have been satisfied.

(b) Transfer of Permit and Permit Applications on Successors and Assigns. Active land use permits and pending land use permit applications, including subdivisions, run with the land and therefore are transferable to new owners.

(c) Reapplication Following Denial of Permit. Whenever a land use permit or a variance is denied, such action may not be reconsidered for a period of one year from the date of denial unless the applicant clearly demonstrates that:

(1) The zoning classification or relevant development standards have changed,

(2) New information is available that could not with reasonable diligence have been presented at a previous hearing, or

(3) The project is modified in such a manner so as to correct the defects on which the original denial was based.

#### **14.16A.050 Official File.**

(a) The Planning Director shall compile an official file on each application filed containing the following:

(1) The application materials submitted by the applicant.

(2) Any staff reports prepared.

(3) All written testimony received on the matter.

(4) The electronic recording and minutes of any public hearing on the matter.

(5) The decision of the permit-granting authority on the permit.

(6) Any other information relevant to the matter.

(7) Certification of publication, and a copy of the mailed notification and the date of mailing.

(b) The official file is a public record. It is available for inspection and copying in the Planning Department during regular business hours, though availability may be temporarily restricted during or prior to public hearings while staff is preparing for the hearing.

(c) Official files shall be kept pursuant to State retention requirements.

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## Part 2 General Review Procedures (REDMOND)

### 14.16A.110 Purpose.

The purpose of this section is to provide for general procedures for the review of development applications. Detailed administrative review procedures for applications and land use actions classified as Types I through Type VI are outlined in Chapter 14.16B. Decision Criteria for specific permits are outlined in Chapter 14.16C.

### 14.16A.120 Environmental Review.

Environmental review is conducted pursuant to Title 16 SEPA Procedures and Policies.

### 14.16A.130 Construction Plan Review. (14.16.250-290)

(a) The purpose of this section is to establish procedures for reviewing site construction plans for site improvements. Site construction drawings are engineering documents that are required for improvements to a particular site.

#### (b) Public Works Construction Plan Approval

(1) Upon receipt of approval of a land use permit or preliminary subdivision, the applicant is required to apply for construction plan approval relating to following elements: on-site and off-site storm water management, erosion control measures, public road and frontage improvements, dedication or deeding of right-of-way, street trees and other required landscaping elements, utilities, and any other improvement related to the development.

(2) The application for construction plan approval shall include a completed master application form, plans and materials as outlined in the Master Use Application and related checklists, and fee as set by Council resolution.

(3) Applicant is required to obtain approvals from Postmaster and utility purveyors.

(3) Following approval of the construction plans and prior to any site work, the applicant shall schedule a pre-construction meeting with Public Works. All contractors, subcontractors and utility representatives are to meet to discuss any issues related to the construction activity and minimizing impacts to the neighborhood and nearby facilities.

(4) Pursuant to Section [14.12.810](#), the Public Works Director may require a performance security to be in place before construction activities are commenced.

(c) Public Improvements Required Before Occupancy or Final Plat. Final plat approval or certificate of occupancy shall not be granted unless the required public improvements have been installed and accepted by the Public Works Department or the subdivider has provided a completion security pursuant to Section [14.12.820](#) to ensure that all of these requirements will be fulfilled within not more than 12 months after final plat approval or until half of the dwelling units within the plat or phase are issued building permits, whichever comes first. Replacement trees to be located on public property must be planted prior to final plat approval. Replacement trees to be located on a private lot must be installed prior to issuing a final inspection or certificate of occupancy for that lot.

(d) Dedication of Public Stormwater Facilities. Stormwater facilities shall be dedicated to the City at the completion of development. Private and commercial stormwater facilities remain the responsibility of the property owner(s).

(e) Maintenance of Dedicated Facilities Until Acceptance. Facilities intended to be dedicated to the City shall be maintained by the owner until such time the dedicated is accepted by the City.

#### (f) Protection Against Defects.

(1) Whenever public improvements are to be dedicated to the City, the developer shall post a maintenance bond or other sufficient surety pursuant to Section [14.12.830](#) to guarantee that he will correct all defects in such facilities or improvements that occur within two years after the acceptance of dedication of the improvements.

(2) An architect or engineer retained by the developer shall certify to the city that all facilities and improvements to be dedicated to the city have been constructed in accordance with the requirements

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of this article. This certification shall be a condition precedent to acceptance by the city of the offer of dedication of such facilities or improvements.

(3) For purposes of this section, the term “defects” refers to any condition that requires repairs over and above the normal amount of maintenance required for a particular improvement.

(g) Authorizing Use and/or Occupancy Before Completion of Development Under Land Use Permits. When weather conditions or other factors beyond the control of the permittee (exclusive of financial hardship) makes it unreasonable for the permittee to comply with all of the requirements of the permit (exclusive of subdivision approvals), the planning director may authorize the commencement of the intended use or the occupancy of buildings if the permit recipient provides a performance bond or other security to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed 12 months). Provided further that the building official finds that such occupancy will not result in a safety or health hazard.

#### **14.16A.140 Building and Construction Permit Review.**

Procedures and requirements for administering and enforcing building and construction codes are pursuant to Chapter 14.80.

#### **14.16A.150 Phasing Development.**

(a) Projects may be completed in phases provided the phasing meets the requirements of this section.

(b) The developer shall submit site plans that clearly show the various phases or stages of the proposed development and the requirements of this title that will be satisfied with respect to each phase or stage.

(c) Each phase must stand on its own in terms of meeting the requirements of the permit and Title 14. For example, improvements necessary to support Phase 1 cannot be deferred to be constructed at Phase 2.

(d) The circulation pattern at the end of each phase must result in a configuration that does not create traffic hazards and adequately supports the level of traffic anticipated to be generated.

#### **14.16A.160 Post-Annexation Processing of Building and Related Permits and Land Use Applications. (NEW)**

(a) The purpose of this section is to clearly state the process for processing of permits in newly annexed areas consistent with any adopted interlocal agreements.

(b) The City will honor subdivisions, short plats, and other projects that have already vested under Snohomish County development standards pursuant to this section.

(c) The County will continue the building permit review and project inspections of vested active projects and active land use permits pursuant to any adopted annexation interlocal agreement.

(d) After the effective date of an annexation, all new land use and building applications shall conform to City regulations, and all plan reviews and inspections will be conducted by the City.

(e) Transfer By Request of an Applicant. An applicant may request a transfer of a pending building permit application from the County to the City by submitting a written request to the City. The City will recognize any intermediate approvals that are effective prior to transfer of the permit application.

(f) Permit Renewal or Extension. After the effective date of annexation, any request to renew a building permit or to renew or extend a land use permit issued by the County in the annexation area shall be made to and administered by the City pursuant to Section 14.16A.250.

(g) Applicant Requested Change to County Vested Project or County Approved Land Use Permit. Once permit processing has been transferred to the City pursuant to subsections (c) and (d) above, or permit has been approved by County pursuant to an adopted annexation interlocal agreement, an applicant may request a change to a permit from the City in compliance with the requirements in Section 14.16A.235. Administrative modifications will be pursuant to County code; all other modifications will be pursuant to City code.

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(h) Expiration of County Vested Permits. Permits in an annexation area which vested in the County before the effective date of the annexation shall expire pursuant to the County code, as vested. If the County code does not specifically address expiration, then Section 14.16A.250 shall govern expiration.

#### **14.16A.170 Engineering Design and Development Standards. (14.12.900)**

(a) The Engineering Design and Development Standards, cited routinely as the EDDS, shall govern all new construction and upgrading of transportation facilities, storm drainage facilities and utilities within City rights-of-way, whether occurring under permit or franchise, and other transportation related improvements mandated by the City's Land Use Code.

(b) Work and materials installed in the existing or future rights-of-way shall conform to the currently adopted version of the EDDS.

(c) The EDDS may be amended or revised by the City Engineer in accordance with the policies in this title and sound engineering practices. A copy of any such amendment or revision shall be filed with the City Clerk and shall be subject to a 10-day public comment period. Copies of the EDDS amendments or revisions may be secured from the Department of Public Works at appropriate fees in accordance with copying charges established by the City Council.

(d) The City Engineer may adopt and incorporate into the EDDS, by reference, other federal, state and local design standards and specifications and other professionally accepted engineering standards and specifications.

(e) The currently adopted version of the Engineering Design and Development Standards shall be available in the City Clerk's office and the Public Works Department.

#### **14.16A.180 Security Mechanisms. (14.12.800-895)**

(a) General Requirements.

(1) As security the City may accept any of the following: bonds, letters of credit from an insured bank, a secured account with an insured bank, or a cash deposit. Other forms of security may be accepted if approved by the City Finance Director in consultation with the City Attorney.

(2) In each case where the City requires or allows an applicant to post a security, the Public Works Director shall determine the type of security to be used.

(b) Performance Securities.

(1) Except as provided in subsection (d) of this section, a performance security shall be required for any project on a site greater than one acre in size to guarantee that a site can be closed and/or winterized if necessary, or that measures can be taken by the City to respond to weather-related emergencies.

(2) In addition, an augmented performance security may be required by the Public Works Director to cover the cost of installing any system-wide public improvements that an applicant has agreed to install as part of his project where the lack of installation would cause the system to fail or not be completed in a timely manner.

(3) Performance securities may be presented to the City after preliminary approval of a project but in all circumstances shall be presented prior to any site work, including clearing, grading, or construction.

(4) Submission of a performance security may be waived by the Public Works Director if, in his opinion, said guarantee of installation is not necessary.

(c) Completion Securities. In lieu of installing public improvements per this title or a condition of a permit, a developer may propose to post a security to ensure completion of the improvements within one year of permit approval. An extension not to exceed one year may be approved by the Public Works Director upon extension of the security or submission of a new one.

(d) Maintenance Securities. Any developer shall provide to the City a maintenance security to cover the cost of replacing or repairing any of the public improvements installed per this title or a condition of a permit.

(e) Amount of the Security.

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(1) The amount of a security shall be a percentage, as specified below, of the estimated cost of design, materials, and labor, based on the estimated costs on the last day covered by the device, of installing, replacing, or repairing (whichever is appropriate) the improvements covered by the security.

- (i) Performance--150 percent of the costs specified in subsection (1) of this section.
- (ii) Completion--150 percent of the costs specified in subsection (1) of this section.
- (iii) Maintenance--20 percent of the costs specified in subsection (1) of this section.

(2) The Public Works Director shall approve the amount of a security under subsection (a) of this section. The applicant shall prepare for the Public Works Director's review and approval a cost estimate of the items to be covered by the security.

(f) Reduction of Securities. In those cases where improvement securities have been made, the amount of the guarantee may be reduced upon acceptance of the dedication of a portion of the required improvements. The amount of the reduction shall not exceed the percentage which the improvements just accepted for dedication made up of all originally required improvements. In no case, however, shall the guarantee be reduced to less than 15 percent of the original amount.

(g) Duration of Securities. All securities shall be held until released by the Public Works Director; however, the standard duration of the various securities should be as follows:

(1) Performance--One year or until all improvements are installed and accepted by the City, whichever is greater.

(2) Completion--One year or until all improvements are installed and accepted by the City, whichever is greater.

(3) Maintenance--Two years; extendable by the City if repairs are made at the end of the bonding period which, in the opinion of the Public Works Director, require additional guarantee of workmanship.

(h) Supplemental Administrative Costs. In addition to the security, the applicant shall pay a fee to the City covering the City's actual expenses of administering, and if necessary, using the proceeds of the security. The amount of this fee will be set by resolution.

(i) Security Agreement. In each case where a security is posted, the applicant and the Public Works Director shall sign a notarized security agreement, approved in form by the City Attorney. This agreement shall be recorded with the Snohomish County Auditor. The agreement shall provide the following information:

(1) A description of the work or improvements covered by the security.

(2) Either the period of time covered by the maintenance security or the date after which the City will use the proceeds of the performance security to complete the required work or improvements.

(3) The amount and nature of the security and the amount of the cash deposit.

(4) The rights and duties of the City and the applicant.

(5) An irrevocable license to run with the property to allow the employees, agents, or contractors of the City to go on the subject property for the purpose of inspecting and, if necessary, doing the work or making the improvements covered by the security.

(6) The mechanism by and circumstances under which the security shall be released. At a minimum, after the work or improvements covered by a performance security have been completed, or at the end of the time covered by a maintenance security, the applicant may request the City to release the security. If the applicant has complied with the security agreement and this Code, the Public Works Director shall release the security remaining. If the work has not been completed or repairs not made, then the City shall not release the security until such work is completed per Section (j). Partial release of the security may be allowed; provided, that the developer provide a new security in the amount specified in Section (e) for the remaining work.

(7) Upon release of any recorded security mechanism a copy of the letter of release shall be filed with the Snohomish County Auditor.

(j) Use of Security Funds by the City.

(1) If during the period of time covered by a maintenance security, or after the date by which the required work or improvements are to be completed under a performance security, the Public Works

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Director determines that the security agreement has not been complied with, he shall notify the applicant of this. The notice must state:

(i) The work that must be done or the improvements that must be made to comply with the security agreement; and

(ii) The amount of time, not to exceed 30 days, that the applicant has to commence and complete the required work or improvements; and

(iii) That, if the work or improvements are not commenced and completed within the time specified, the City will use the proceeds of the security to have the required work or improvements completed.

(2) If the work or improvements covered by the security are not completed within the time specified in the notice, the City shall obtain the proceeds of the security and shall cause such work to be completed.

(3) The applicant is responsible for all costs incurred by the City in administering, maintaining, or making the improvements covered by the security(s). The City shall release or refund any proceeds of a performance or maintenance security remaining after subtracting all costs for doing the work or making the improvements covered by the security. The applicant shall reimburse the City for any amount expended by the City that exceeds the proceeds of the security. The City may file a lien against the subject property for the amount of any excess.

(4) In each case where the City uses any of the funds of a security, it shall give the applicant an itemized statement of all funds used.

### Part 3 Administrative Review Procedures (REDMOND)

#### 14.16A.205 Purpose.

It is the intent of this section to provide the administrative review procedures for applications and land use actions classified as Types I through VI.

#### 14.16A.210 Types of Review.

(a) The purpose of this section is to provide an overview of the six levels of land use review. Land use and development decisions are classified into six processes based on who makes the decision, the amount of discretion exercised by the decision maker, the level of impact associated with the decision, the amount and type of input sought, and the type of appeal opportunity.

##### (b) Classification of Permits and Decisions

(1) Type I Review: Administrative Decisions without Notice. A Type I process is an administrative review and decision by the appropriate department or division. Applications reviewed under the Type I process are minor administrative decisions and are exempt from certain administrative procedures, such as complete application review, noticing and decision timeframes. Appeals of Type II decisions are made to the Hearing Examiner. The permits and actions reviewed and decided as Type I are listed in the table in Subsection 14.16A.210(d).

(2) Type II Review: Administrative Decisions with Notice. A Type II process is an administrative review and decision with recommendation from staff, city departments or others and requiring public notice at the application and/or decision stages of the review. Appeals of Type II decisions are made to the Hearing Examiner. The permits and actions reviewed and decided as Type II are listed in the table in Subsection 14.16A.210(d).

(3) Type III Review: Quasi-Judicial Decisions - Hearing Examiner. This Type III process is a quasi-judicial review and decision made by the Hearing Examiner. The Hearing Examiner makes a decision based on a staff report and, if required, the Design Review Board. A public meeting may be held prior to the Design Review Board recommendation. The Hearing Examiner considers public testimony received at an open record public hearing. Public notification is provided at the application, public hearing and decision stages of application review. The administrative appeal body is the City Council.

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The permits and actions reviewed and decided as Type III are listed in the table in Subsection 14.16A.210(d).

(4) **Type IV Review: Quasi-Judicial Decisions - City Council with Hearing Examiner Recommendation.** A Type IV process is a quasi-judicial review and recommendation made by the Hearing Examiner and a decision made by the City Council. The Hearing Examiner considers the recommendation from the Design Review Board, if required, as well as public testimony received at an open record public hearing. The City Council makes a decision based on a recommendation from the Hearing Examiner during a closed record public meeting. Public notification is provided at the application, public hearing, and decision stages of application review. There is no opportunity for an administrative appeal. Appeals of City Council decisions are made to Snohomish County Superior Court. The permits and actions reviewed and decided as Type IV are listed in the table in Subsection 14.16A.210(d).

(5) **Type V Review: Quasi-Judicial Decisions - City Council.** A Type V process is a quasi-judicial review and decision made by the City Council. Public notification is provided at the application, public hearing (if any), and decision stages of application review. There is no opportunity for an administrative appeal. Appeals of City Council decisions are made to Snohomish County Superior Court. The permits and actions reviewed and decided as Type V are listed in the table in Subsection 14.16A.210(d).

(6) **Type VI Review: Legislative Decisions - City Council with Planning Commission Recommendation .** A Type VI review is for legislative and/or non-project decisions made by the City Council under its authority to establish policies and regulations regarding future private and public development and management of public lands. The Planning Commission makes a recommendation to the City Council. The Planning Commission will conduct a public hearing to obtain public testimony on the proposed legislation. The City Council may elect to conduct an additional public hearing. The actions reviewed and decided as Type VI are listed in the table in Subsection 14.16A.210(d).

(c) **Permits and Actions Not Listed.** If a permit or land use action is not listed in Table I below, the Planning Director shall make the determination as to the appropriate review procedure.

(d) **Permit-issuing Authority and Appeal Authority.** The permit-issuing authority and appeal authority for permit applications and legislative actions are established in Table I below. A detailed explanation for each review procedure is in Chapter 14.16B under each subsection for each review type.

**Table I: Classification of Permits and Decisions**

<b>Type of Review</b>	<b>TYPE I Administrative without Public Notice</b>	<b>TYPE II Administrative with Public Notice</b>	<b>TYPE III Quasi-Judicial, Hearing Examiner</b>
<b>Land Use Actions and Permits</b>	<ul style="list-style-type: none"> <li>• Administrative Design Review</li> <li>• Administrative Modifications</li> <li>• Boundary Line Adjustments</li> <li>• Change of Use</li> <li>• Code Interpretations</li> <li>• Events</li> <li>• Grading Permit</li> <li>• Home Occupations</li> <li>• Master Sign Program</li> <li>• Reasonable Use Exceptions</li> <li>• Shoreline Exemptions</li> </ul>	<ul style="list-style-type: none"> <li>• Administrative Conditional Use (formerly Special Use)</li> <li>• Binding Site Plans</li> <li>• SEPA Review (early OR when not combined with another permit or required for a Type I permit)</li> <li>• Shoreline Substantial Developments</li> <li>• Short Plats</li> <li>• Short Plat Alterations</li> <li>• Short Plat Vacations</li> <li>• Site Plan Reviews</li> </ul>	<ul style="list-style-type: none"> <li>• Conditional Use</li> <li>• Preliminary Plats</li> <li>• Shoreline Conditional Use</li> <li>• Shoreline Variances</li> <li>• Variances</li> </ul>

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Type of Review	<b>TYPE I Administrative without Public Notice</b>	<b>TYPE II Administrative with Public Notice</b>	<b>TYPE III Quasi-Judicial, Hearing Examiner</b>
	<ul style="list-style-type: none"> <li>• Signs</li> <li>• Temporary Use</li> </ul>		
<b>Recommendation By</b>	None	None	Design Review Board (if required)
<b>Public Hearing Prior to Decision</b>	None	None	Open Record
<b>Permit-Issuing Authority</b>	Department Director or designee	Planning Director or designee	Hearing Examiner
<b>Administrative Appeal Body</b>	Hearing Examiner	Hearing Examiner, except Shoreline permits to State Shoreline Hearings Board	City Council, except Shoreline permits to State Shoreline Hearings Board
<b>Administrative Appeal Hearing</b>	Open Record	Open Record	Closed Record
<b>Administrative Appeal Hearing and Appeal Body (Closed Record)</b>	None	None	None
<b>Judicial Appeal</b>	Superior Court	Superior Court	Superior Court

**Table I: Classification of Permits and Decisions (continued)**

Type of Review	<b>TYPE IV Quasi-Judicial, City Council with Hearing Examiner Recommendation</b>	<b>TYPE V Quasi-Judicial, City Council</b>	<b>TYPE VI Legislative, City Council with Planning Commission Recommendation</b>
<b>Land Use Actions and Permits</b>	<ul style="list-style-type: none"> <li>• Essential Public Facilities</li> <li>• Planned Neighborhood Developments</li> <li>• Rezone – Site Specific Zoning Map Amendments</li> <li>• Secure Community Transition Facilities</li> </ul>	<ul style="list-style-type: none"> <li>• Final Plats</li> <li>• Plat Alterations</li> <li>• Plat Vacations</li> <li>• Right-of-Way Vacations</li> </ul>	<ul style="list-style-type: none"> <li>• Comprehensive Plan Amendment, Map &amp; Text</li> <li>• Development Agreements</li> <li>• Land Use Code Amendments</li> <li>• Rezone – Area-Wide Zoning Map Amendments</li> </ul>
<b>Recommendation By</b>	Hearing Examiner with Open Record Hearing	Design Review Board (if required)	Planning Commission with Open Record Hearing
<b>Public Hearing Prior</b>	Closed Record	Open Record	Closed Record

BLUE = existing code; YELLOW = new section

Type of Review	TYPE IV Quasi-Judicial, City Council with Hearing Examiner Recommendation	TYPE V Quasi-Judicial, City Council	TYPE VI Legislative, City Council with Planning Commission Recommendation
<b>to Decision</b>			
<b>Permit-Issuing Authority</b>	City Council	City Council	City Council
<b>Administrative Appeal Body</b>	None	None	Growth Management Hearings Board
<b>Administrative Appeal Hearing</b>	None	None	Closed Record
<b>Closed Record Administrative Appeal Hearing and Appeal Body</b>	None	None	None
<b>Judicial Appeal</b>	Superior Court	Superior Court	Superior Court

(e) Land Use Determinations. Determinations are decisions that need to be made as part of another land use action or permit review. Each type of determination has a separate review process determined by the Planning Director or Public Works Director, except Design Review which is reviewed pursuant to Section 14.16C.050.

**Table II: Determinations**

Land Use Determinations
EDDS Street Deviations Design Review Miscellaneous Administrative Determinations Reasonable Use Exceptions Right-of-Way Improvement Exception Underground Utility Deviations

**14.16A.215 Land Use Permits Required. (14.16.010 & Redmond)**

(a) Prior to building construction or alteration, substantial change of use, land clearing, or grading, the property owner is required to obtain a land use permit for the proposal.

(b) Whenever a proposed project requires more than one land use permit, the permits will be processed simultaneously using the consolidated permit process specified in Section 14.16A.220(g).

BLUE = existing code; YELLOW = new section

#### **14.16A.220 Application Procedures.**

(a) This section describes the requirements for making application for review, including pre-application conferences, submittal requirements, and fees.

(b) Applications for development permits and other land use actions shall be made to the Department of Planning and Community Development, except Type I applications shall be made to the department which has the decision making authority (See Subsection 14.16A.210(d)).

(c) The property owner or any agent of the owner with authorized proof of agency may apply for a permit or approval under the type of process specified. The consent to the application must be made by the owners or lessees of property, or persons who have contracted to purchase property. Signatures by agents of these parties may be accepted if a letter from the party with ownership interest is submitted which authorizes the agent to sign the application in their name. (REDMOND & 14.16.040)

(d) Pre-Application Conferences. (REDMOND & 14.16.020)

(1) To achieve efficient and effective application of the requirements of this title, a pre-application conference between the applicant and the City staff is required for projects needing a conditional use permit and Planned Neighborhood Developments.

(2) Pre-application conferences are highly recommended for applications requiring Type III, IV, V reviews, and design review. Pre-application conferences are optional for applications requiring Type I, II and VI reviews. Prior to submitting an application, the applicant may arrange a conference with the Planning and Public Works staff to review the proposed action, to become familiar with City policies, plans and development requirements, and to coordinate all necessary permits and procedures. Pre-application procedures and submittal requirements shall be determined by the Planning Director and available in the Department of Planning and Community Development.

(3) It is impossible for the conference to be an exhaustive review of all potential issues. The discussions at the conference shall not bind or prohibit the City's future application or enforcement of all applicable law.

(4) To request a pre-application conference, an applicant shall submit a set of preliminary plans to the City. The amount and quality of the information submitted is up to the applicant, however, better information provided initially is more likely to result in better feedback and discussion with Planning staff. At a minimum, the plan should include a basic layout of the proposal: circulation, lot patterns and building locations, location of critical areas and other site constraints.

(e) Submittal Requirements.

(1) The Planning Director shall specify submittal requirements including type, detail, and number of copies for an application to be complete. Submittal requirement for each permit application shall be available in the Department of Planning and Community Development. At a minimum the following shall be submitted with new applications:

- (i) General application form;
- (ii) Applicable fees;
- (iii) Environmental checklist (if not exempt);
- (iv) Applicable signatures, stamps or certifications;
- (v) All required items stated in the applicable development handouts.

(2) The Planning Director may waive specific submittal requirements determined to be unnecessary for review of an application. Alternatively, the Planning Director may require additional material such as maps, studies, or models when the Planning Director determines such material is needed to adequately assess the proposed project.

(3) Applications for shoreline substantial development permits shall include submittal of the supplemental requirements set forth in Section 14.92.050.

(f) Determination of Complete Application. (14.16.050)

(1) The presumption established by this title is that all of the information set forth in the specified submittal checklists is necessary to satisfy the requirements of this section. However, each development is unique, and therefore the Planning Director may request additional information, if

BLUE = existing code; YELLOW = new section

necessary, or waive certain items if it is determined they are not necessary to ensure that the project complies with City requirements.

(2) The Planning Director shall make a determination of completeness pursuant to 14.16A.230(c).

(g) Consolidated Permit Process.

(1) When applying concurrently, a development that involves two or more related applications individual permit numbers shall be assigned, separate permit fees shall be paid, but the applications shall be reviewed and processed collectively. A consolidated report setting forth the recommendation and decision shall be issued.

(2) Applications processed in accordance with subsection (1) of this section which have the same highest numbered procedure but are assigned different hearing bodies shall be heard collectively by the highest decision maker(s). The City Council is the highest, followed by the Hearing Examiner and then the Design Review Board.

(3) No hearing or deliberation upon an application for a conditional use permit, subdivision, variance, planned neighborhood development, site plan review, administrative conditional use permit, shoreline permit, or similar quasi-judicial or administrative action which is inconsistent with the existing Zoning Map shall be scheduled for the same meeting at which the required Zoning Map amendment will be considered by the Hearing Examiner or the City Council. This section is intended to be a "procedural requirement" applicable to such actions as noted in RCW 58.17.070.

(h) Application and Inspection Fees. Fees are set forth in a separate fees resolution adopted by the City Council.

#### 14.16A.225 Noticing Requirements.

(a) Mailed Notices and Postcard Notices.

(1) Mailings shall include a mailed notice or postcard notice to owners of real property within 300 feet of the project site, or 20 property owners (whichever is greater), including the project name and number and the following information. Mailings may provide a website address where detailed information is available for viewing.

(i) The date of application and the date of the Notice of Application;

(ii) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070;

(iii) The identification of other permits not included in the application, to the extent known by the City;

(iv) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing Notice of Application, the location where the application and any studies can be reviewed;

(v) A statement of the limits of the public comment period;

(vi) A statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a hearing, if applicable, request a copy of the decision once made, and any appeal rights;

(vii) The date, time, place and type of meeting or hearing, if applicable and if it is scheduled at the date of notice of the application;

(viii) A statement of the preliminary determination of consistency, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation;

(ix) A map depicting the boundaries of the project site and, when applicable, a site map showing the proposal or website address where maps can be viewed;

(x) A statement announcing the City's goal of complying with the intent of the American Disabilities Act, announcing accessibility, offer of assistance to persons with special needs, and availability of TDD services.

(xi) Any other information determined appropriate by the City, such as the City's threshold determination, if complete at the time of issuance of the Notice of Application.

BLUE = existing code; YELLOW = new section

(2) Mail to adjacent jurisdictions if proposed development is within one-quarter mile of boundary; the State Department of Transportation if the proposed development is adjacent to a state highway; and to all other agencies with jurisdiction. (14.16.060)

(3) Mailings shall also include the mailed Notice of Application or postcard notice including at least the information required in subsection (a)(1) of this section to each person who has requested such notice.

(4) No proceeding of any procedure established in this chapter shall be found to be invalid for failure to provide mailed notice as required in this section as long as the other methods of notice have met their respective requirements and there was a good faith attempt to comply with the mailed notice requirements.

(5) The records of the Snohomish County Assessor's Office shall be used for determining the property owner of record. Addresses for a mailed notice required by this code shall be obtained from the Snohomish County real property tax records. The approval authority shall issue a certificate of mailing to all persons entitled to notice under this chapter. The approval authority may provide notice to other persons than those required to receive notice under the code.

(6) All public notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first.

(b) Posted Notices.

(1) On-site Posting. At least one public notice board shall be posted on the site on each public right-of-way fronting on the site. The sign shall be erected in a manner that is accessible and easy to read by the general public. The Planning Director shall establish standards for size, color, layout, design, wording and placement of the notice boards. The Department of Planning and Community Development will provide prepared signs for on-site posting to the applicant. The applicant is responsible for posting the on-site notice and submitting a signed affidavit of on-site posting with a photo of each on-site notice.

(2) Public Posting. A public notice shall also be posted on the official notice board at City Hall.

(3) Special Posting for Major Land Use Actions. In addition to the general notice requirements, major land use actions shall comply with the following extraordinary signage requirements:

(i) Sign Size and Placement. Each sign shall be four feet by eight feet in size, placed no closer than five feet from the right-of-way, visible from each public street on which the subject property has frontage, and placed outside the sight distance triangle.

(ii) Content of Notice. Signs shall be prepared using templates or attachable letters. Hand lettered signs are not acceptable. The required sign shall include:

- a. The title "Notice of Land Use Application";
- b. A graphic or written description of the site boundaries;
- c. Type of action/application (preliminary plat, etc.);
- d. The date of public hearing;
- e. The name and telephone number of the Department of Planning and Community

Development;

f. City of Lake Stevens logo;

g. Other information as the Planning Director may determine to be necessary to adequately notify the public of the pending land use application.

(iii) Responsibility for Installation and Removal.

a. The applicant shall be solely responsible for the construction, installation, and removal of the sign(s) and the associated costs.

b. The sign(s) shall be erected at least 10 days prior to the public hearing. The applicant shall sign an affidavit, stating that the sign(s) were installed and the date and posting of property. Photos of each sign shall also be submitted with the affidavit.

c. The sign(s) shall be removed immediately following final action by the Hearing Examiner.

d. If the sign is removed prior to the final action, the applicant is responsible for immediate replacement of the sign.

BLUE = existing code; YELLOW = new section

(c) Responsibility for Notice. The Planning Director is responsible for providing published legal notices, mailed notices, and posted notices at City Hall. The applicant is responsible for complying with on-site posted notice requirements.

#### **14.16A.230 Timeframes for Review. (REDMOND & 14.16.030)**

(a) Purpose. RCW 36.70B.070 and 36.70B.080 require timeframes be established to ensure applications are reviewed in a timely and predictable manner. This subsection establishes the timeframes and procedures for a determination of completeness and final decision for Type II, III, IV or V reviews. No timeframes are established by these statutes for Type I or Type VI reviews.

(b) Computing Time. Unless otherwise specified, all timeframes are indicated as calendar days, not working days. For the purposes of computing time, the day the determination or decision is rendered shall not be included. The last day of the time period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the City's ordinances as a legal holiday, then it also is excluded and the time period concludes at the end of the next business day.

(c) Complete Application Review Timeframe. The following procedures shall be applied to new applications requiring Type II, III, IV, or V reviews. Applications requiring Type I or Type VI review are excluded from this requirement.

(1) Within 28 days after receiving an application, the Planning Director shall mail, email, fax, or otherwise provide to the applicant a written determination that the application is complete, or that the application is incomplete, and what is necessary to make the application complete. The applicant has 90 days to submit the necessary information to the City.

(2) If the Planning Director does not provide a written determination within the 28 days, the application shall be deemed complete at the end of the twenty-eighth day.

(3) If additional information is needed to make the application complete, the Planning Director shall notify the applicant whether the application is complete or what additional information is necessary within 14 days after an applicant has submitted the information identified by the Planning Director as being needed.

(4) An application is complete for purposes of this section when it meets the submittal requirements established by the Planning Director and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the Planning Director from requesting additional information or studies either at the time of the Notice of Completeness or subsequently, if new information is required to complete review of the application or substantial changes in the permit application are proposed.

(5) To the extent known by the City, other agencies with jurisdiction over the project permit application shall be identified in the City's determination of completeness required by subsection (1) of this section.

(d) Application Review and Decision Timeframe.

(1) Decisions on Type II, III, IV, or V applications shall not exceed 120 days, unless the Planning Director makes written findings that a specified amount of additional time is needed for processing of a specific complete project application. Applications for developments that are complex or that have extensive or difficult issues may take additional time. The applicant and the City may agree in writing to extend the time period.

(2) Preliminary Plats. Pursuant to RCW 58.17.140, preliminary plats of any proposed subdivision and dedication shall be approved, disapproved, or returned to the applicant for modification or correction within 90 days from the date of filing thereof unless the applicant consents to an extension of such time period or the 90-day limitation is extended to include up to 21 days as specified under RCW 58.17.095(3). The 90-day period shall not include the time spent preparing and circulating an environmental impact statement by the local governmental agency.

BLUE = existing code; YELLOW = new section

(3) Final Plats and Short Plats. Pursuant to RCW 58.17.140, final plats and short plats shall be approved, disapproved, or returned to the applicant within 30 days from the date of filing thereof, unless the applicant consents to an extension of such time period.

(4) Appeals. The time period for consideration and decision on appeals shall not exceed: 90 days for an open record appeal hearing and 60 days for a closed record appeal. The parties may agree in writing to extend these time periods. Any extension of time mutually agreed upon by the applicant and the City shall be in writing.

(5) Exemptions. The time limits established in this title do not apply if a project permit application:

- (i) Requires an amendment to the Comprehensive Plan or a development regulation;
- (ii) Requires approval of the siting of an essential public facility as provided in RCW

36.70A.200;

(iii) Is reviewed as Type I or VI permit;

(iv) Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete.

(e) Calculating Decision Timeframe. In determining the number of days that have elapsed after the City has notified the applicant that the application is complete for purposes of calculating the time for issuance of the Notice of Final Decision, the following periods shall be excluded:

(1) Any period during which the applicant has been requested by the City to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the City notifies the applicant of the need for additional information until the earlier of the date the local government determines whether the additional information satisfies the request for information or 14 days after the date the information has been provided to the City;

(2) If the City determines that the information submitted by the applicant is insufficient, it shall notify the applicant of the deficiencies and the procedures under subsection (1) of this section shall apply as if a new request for studies had been made;

(3) Any period during which an environmental impact statement is being prepared following a determination of significance (DS) pursuant to Chapter 43.21C RCW, or if the City and the applicant in writing shall agree to a time period for completion of an environmental impact statement;

(4) Any period for administrative appeals of project permits, if an open record appeal hearing or a closed record appeal, or both, are allowed; or

(5) Any extension of time mutually agreed upon by the applicant and the City.

(f) Final Decision. If the City is unable to issue a final decision within the time limits provided herein, the applicant shall be provided written notice of this fact. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision.

#### **14.16A.235 Modifications to Approved Permits. (14.16.320)**

(a) Administrative modifications are reviewed and approved pursuant to Section 14.16C.025.

(b) All other requests for changes in approved permits will be processed as new applications.

(c) The planning director shall determine whether modifications of permits fall within the categories set forth above in Subsections (a) and (b). However, the Planning Director shall provide the original permit issuing authority with a report on the modification and request feedback within twenty-one days from that authority as to the appropriateness of the determination.

(d) An applicant requesting approval of changes shall submit a written request for such approval to the Planning Director, and that request shall identify the changes. Approval of all changes must be given in writing.

#### **14.16A.240 Vacation of Approved Permits and Variances. (SnoCo)**

(a) Requests to vacate a permit or variance shall be made in writing to the Department of Planning and Community Development.

BLUE = existing code; YELLOW = new section

(b) The Planning Director shall determine if the following conditions are present prior to authorizing the vacation:

(1) The use authorized by the permit or variance does not exist and is not actively being pursued; or

(2) The use has been terminated and no violation of the terms and the conditions of the variance or permit exists.

(c) Vacation of any permit or variance shall be documented by the filing of a notice of land use permit or variance vacation with the county auditor on a form provided by the Department of Planning and Community Development.

#### **14.16A.245 Expiration of Inactive Applications. (NEW)**

(a) An application shall expire 180 days after the last date that additional information is requested if the applicant has failed to provide the information except that:

(1) The Planning Director may grant one 90-day extension if the following criteria are met:

(i) A written request for extension is submitted at least thirty days prior to the expiration date;

(ii) The applicant demonstrates that circumstances beyond the control of the applicant prevent timely submittal of the requested information; and

(iii) The applicant provides a reasonable schedule for submittal of the requested information.

(2) The Department may set an expiration date of less than 180 days when the permit application is the result of a code enforcement action. Permit application expiration does not affect permits under code enforcement action.

(3) No application shall expire when under review by the Department following submittal of a complete application or timely resubmittal of an application when all required information has been provided.

(4) The Department may extend an expiration date for an application with no written request from an applicant when additional time for city processing or scheduling of appointments is required, when the Department needs information or responses from other agencies, or under other similar circumstances.

(b) A permit application approved for issuance, but not paid for and issued, shall expire 90-days after the date it is approved for issuance.

(c) Outstanding fees are due from applicant and payable immediately.

#### **14.16A.250 Expiration of Approvals and Approved Permits. (14.16.350)**

(a) Land use approvals/permits other than subdivisions or shoreline permits shall expire automatically within one year after the issuance of such permits, if:

(1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, excavation or demolition is necessary before commencement of such use, or

(2) Less than 10 percent of the total cost of all construction, excavation or demolition of the approved development has been completed.

(b) Land use permits other than subdivisions shall expire automatically also if construction, grading or excavation is commenced but such work is discontinued for a period of one year.

(c) Shoreline development permits shall become void two years from the date of its issuance by Hearing Examiner when substantial work on the authorized shoreline development has not been initiated within that time period.

(d) For land use permits other than preliminary short subdivisions, subdivisions and sign permits,

(1) The planning director may grant one six month extension to a permit upon showing proper justification if:

(i) the extension is requested at least thirty calendar days before the permit expires,

(ii) the permittee has proceeded with due diligence and in good faith, and

(iii) the zoning designation of the property has not changed.

BLUE = existing code; YELLOW = new section

(2) Proper justification consists of one or more of the following conditions:

- (i) economic hardship,
- (ii) change of ownership,
- (iii) unanticipated construction and/or site design problems,
- (iv) other circumstances beyond the control of the applicant determined acceptable by the appropriate department director.

(e) Preliminary short subdivision and subdivision approvals shall expire automatically if, within five years after the issuance of such permits:

- (1) The final plat has not been submitted to the City for approval, or
- (2) An extension has not been granted. The planning director may approve a single one year extension to the permit if:
  - (i) the request was delivered in writing to the Planning Department at least 30 calendar days prior to the permit's expiration and meets one of the proper justifications listed in subsection (d)(2) above,
  - (ii) the permittee has proceeded with due diligence and in good faith to complete the plat, and
  - (iii) conditions have not changed so substantially as to warrant a new application.

***THIS SUBSECTION IS STILL UNDER REVIEW BY COUNCIL***

(f) Additional Extension of Preliminary Short Subdivisions, Preliminary Subdivisions, Conditional Use Permits, Special Use Permits, Zoning Permits, and Site Plans.

(1) After requesting and receiving the normal permit extension provided in sections (d) or (e) above, an applicant or his or her successors may request of the Planning Director sixty days prior to expiration of permit extension a one- or two-year extension as provided in subsections (3) and (4) below for an extension above the original extension request provided all other requirements of this section are met.

(2) The total combined time period for any preliminary short subdivision or preliminary subdivision may be extended by the department under Section 14.16A.250 and shall not exceed a total of three years. The total combined time period for any conditional use permit, special use permit, zoning permit, or site plan may be extended by the department under Section 14.16A.250 and shall not exceed a total of one and a half years.

(3) The one-year extension of preliminary short subdivision and preliminary subdivision established in (e) above may be further extended by up to an additional two years for approvals prior to March 31, 2010. Associated permit approvals before March 31, 2010 including construction plan, clearing and grading, rezone, right-of-way construction, sidewalk and street deviation, and building permit shall be automatically extended for the same period.

(4) The six-month extension of conditional use permits, special use permits, zoning permits, and site plans established in (d) above may be further extended by up to an additional one year for approvals prior to March 31, 2010. Associated permit approvals before March 31, 2010 including construction plan, clearing and grading, rezone, right-of-way construction, sidewalk and street deviation, and building permit shall be automatically extended for the same period.

(5) Permits are vested to the codes in place at the time of original approval.

(6) Section 14.16A.250(f) shall be repealed effective December 31, 2011.

(g) Construction Plan Approvals. (MARYSVILLE)

(1) Construction plans for projects reviewed under the development code shall be approved for a period of 60 months from the date the city signs the plans or until expiration of the preliminary plat, preliminary short plan, binding site plan, conditional use permit, or site plan approval. If the construction plan is not connected to another permit, it shall expire in one year with one six month extension allowed.

(2) The city may grant an extension of up to 12 months, if substantial progress has been made by the applicant to complete construction of the approved project. Extensions shall be considered on a case-by-case basis by the Public Works Director or designee and will require a letter to be submitted to the city requesting the extension at least 30 calendar days prior to the approval's expiration. Said letter shall demonstrate that the project has made substantial construction progress, the reason for the extension request, and an estimated timeline for completion of construction.

**BLUE** = existing code; **YELLOW** = new section

(3) When the approval period, or any extension thereof expires, the city's approval of the construction plans shall be deemed automatically withdrawn. In order to receive further consideration by the city after such expiration and automatic withdrawal, construction plans must be re-submitted and must comply with the current code requirements.

(g) Once the time period and any extensions have expired, approval/permit shall terminate and the application is void and deemed withdrawn.

#### **14.16A.255 Revocation of Approved Permits. (14.28.050)**

(a) The Planning Director may determine that any approved permit should be revoked upon a finding that one or more of the following conditions exist:

(1) The permit was issued in error, and permit is revoked prior to the end of appeal period;

(2) Approval of the permit was obtained by misrepresentation of material fact; or

(3) The permittee fails to develop or maintain the property in accordance with the approved plans, the requirements of this Title, or any additional requirements lawfully imposed by the City.

(b) Except as provided in subsection (c) of this section, the Planning Director shall provide the property owner and permit applicant at least 21 days' written notice of the Planning Director's intent to revoke the permit. Revocation will automatically occur upon the date specified by the notice unless the property owner or permit holder files an appeal as provided in the appropriate section of this title. If an appeal is filed, revocation shall not take place unless and until the appeal is concluded and then only if the decision of the Planning Director is upheld; provided, that at the request of the Planning Director, and after notice and opportunity to be heard has been provided, the Hearing Examiner may issue an order at any time during the appeal proceedings to require that the property owner or permit applicant cease the use or activity for which the permit was approved pending conclusion of the appeal, if the Hearing Examiner determines that the Planning Director's decision is likely to be upheld and that irreparable harm will likely result if the use or activity is not ceased.

(c) The Planning Director may revoke a permit on less than 21 days' notice or upon no notice at all if, but only if, the property owner's or permit holder's continued activities will result in imminent danger to person or property or otherwise create irreparable harm. In the event of such an extraordinary situation, the property owner or permit holder may file an appeal of the revocation and seek an expedited appeal hearing. Such an expedited hearing shall take place at the earliest opportunity and shall be given priority over any other matter on the Hearing Examiner's schedule that may be legally delayed.

(d) No person may continue to make use of land or buildings in the manner authorized by any sign, administrative conditional use or conditional use permit after such permit has been revoked.

#### **14.16A.260 Public Hearings. (14.16.060 & 14.16360-390)**

(a) This section clarifies procedures for public hearings that are not outlined in each of the review types in Chapter 14.16B.

(b) Public Hearings. The purpose of having hearings is to provide decision makers with an opportunity to obtain additional information and to provide the public with an opportunity to introduce that information and to make their views known. When this title or State law requires a hearing, the following shall apply:

(1) A verbatim record shall be kept;

(2) Those present shall be given the opportunity to testify;

(3) The hearing authority shall be allowed to ask questions of those testifying;

(4) The hearing shall be conducted to ensure fairness to all parties;

(5) The hearing authority may subpoena witnesses; and

(6) A hearing may be kept open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six months or more elapses between meeting dates.

(c) Notices of public hearings shall include the following information:

(1) The date, time, and place of the hearing.

BLUE = existing code; YELLOW = new section

- (2) Location of the site.
  - (3) A brief description of the request, and any proposed modifications or variances.
  - (4) Applicant's name.
  - (5) Project name and file number and a statement of its availability for inspection by the public.
  - (6) A statement of the right of any person to submit written testimony to the appropriate permit-issuing authority and to appear at the public hearing to give testimony orally.
  - (7) A statement that only persons who submit written or oral testimony to the permit-issuing authority may appeal the decision.
  - (8) A statement announcing the City's goal of complying with the intent of the American Disabilities Act, announcing accessibility, offer of assistance to persons with special needs, and availability of TDD services.
- (d) Burden of Proof/Testimony.
- (1) The burden of presenting evidence to the permit-issuing board sufficient to lead it to conclude that the application should be approved or denied shall be upon the party advancing the position.
  - (2) All persons in attendance that wish to testify shall be sworn-in.
  - (3) All findings and conclusions necessary to the issuance of a decision shall be based upon reliable evidence.
- (e) Joint Public Hearings.
- (1) Approval Authority's Decision to Combine Joint Hearing. The Approval Authority may combine any public hearing on a project permit application with any hearing that may be held by another local, State, regional, Federal, or other agency, on the proposed action, as long as:
    - (i) The hearing is held within the City limits; and
    - (ii) The requirements of subsection (3) below are met. [RCW 36.70B.110(7)]
  - (2) Applicant's Request for a Joint Hearing. The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this title. In the alternative, the applicant may agree to a particular schedule if that additional time is needed in order to complete the hearings. [RCW 36.70B.110(7)]
  - (3) Prerequisites to Joint Public Hearing. A joint public hearing may be held with another local, State, regional, Federal or other agency and the City, as long as:
    - (i) The other agency is not expressly prohibited by statute from doing so; [RCW 36.70B.110(8)]
    - (ii) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;
    - (iii) The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing; and
    - (iv) The hearing is held within the geographic boundary of the local government.
- (f) Modification of Application at Hearing.
- (1) In response to questions or comments by at the hearing, the applicant may offer to modify the application, including the plans and specifications submitted.
  - (2) If the modifications are such that the decision maker, staff or public cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans available for review, the decision making entity may continue the hearing and direct the applicant to prepare revisions or approve the application with conditions deemed necessary to ensure the proposal meets the approval criteria.
  - (3) In order to approve the modifications at the meeting, the modifications must be such that they clearly would not require re-evaluations of the SEPA checklist and traffic report, additional public notice and additional agency review. An additional review deposit may be required if the additional review is expected to incur costs in excess if the previous deposit(s).
- (g) Record.
- (1) A tape recording shall be made of all hearings required by this title, and such recordings shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, but a

BLUE = existing code; YELLOW = new section

transcript need not be made. The written decision of a hearing examiner shall meet the requirement for minutes of the hearing examiner public hearing.

(2) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the city for at least two years.

#### **14.16A.265 Appeals.**

(a) This section clarifies procedures for appeals that are not outlined in each of the review types in Chapter 14.16B.

(b) Processing of Appeals. Appeals of decisions on project permit decisions shall be processed according to the procedures outlined in each of the review types in Chapter 14.16B. The decision maker on the appeal may reverse or affirm or modify the decision if it is found the original decision was based on faulty facts or incorrect application of the law. Any modifications to the decision shall be limited to those necessary to ensure the decision criteria of this Title are met.

(c) Effect of Appeal. Decisions on Type I, Type II, Type III, and Type IV permits are assumed valid unless overturned by an appeal decision. An appeal stays all actions by the planning director seeking enforcement of or compliance with the order or decision appealed from, unless the planning director finds that a stay would, in his opinion, cause imminent peril to life or property. In which case, proceedings shall not be stayed except by order of the Hearing Examiner or a court.

(d) Exhaustion of Administrative Remedies. No action to obtain judicial review may be commenced unless all rights of administrative appeal provided by this title or State law have been exhausted. The cost of transcription of all records ordered certified by the court for such review shall be borne by the appellant. A copy of each transcript prepared by an appellant shall be submitted to the City for confirmation of its accuracy.

(e) Consolidated Appeals. All appeals of project permit application decisions, other than an appeal of determination of significance (DS), shall be considered together in a consolidated appeal. [RCW 43.21C.075, 36.70B.060(6)]

### **Part 4 Duties, Authorities and Qualifications of Permit-issuing Bodies**

#### **14.16A.310 Purpose.**

The purpose of this section is to define the authorities, duties, qualifications, appointments, and terms for the officers or positions responsible for administering Title 14.

#### **14.16A.320 Planning Director. (14.12.120)**

(a) The Planning Director enforces the municipal code unless otherwise specified. The Planning Director for Title 14 shall be the Planning and Community Development Director or designated representative.

(b) Authority and Duties. The Planning Director shall have the authority to enter and inspect buildings and land during reasonable hours with permission of the occupant or owner, to issue abatement orders and citations and to cause the termination and abatement of violations of Title 14 unless otherwise specified. The duties of the Planning Director shall include, but not be limited to the following: enforce and administer Title 14 unless otherwise specified; investigate complaints and initiate appropriate action; and keep adequate records of land use applications enforcement actions, and appeals.

(c) Appeals. Appeals of final decisions of the Planning Director made in the course of interpretation or administration of Title 14 shall be governed by 14.16A.265, Appeals. Code Enforcement actions pursuant to Section 14.16A.040, Compliance with Title 14 Required, are not "final decisions" for the purpose of this section.

#### **14.16A.325 Public Works Director. (14.12.130)**

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The Public Works Director is the administrative head of the Department of Public Works. As provided in various sections, the Public Works Director is responsible for planning, administration, enforcement, and decision-making as it pertains to public improvements as specified in this title, including the approval of plans for public improvements and approval of public improvements for acceptance by the City, or to delegate such authority to the Public Works staff or Planning and Community Development Director. In delegating authority, the Public Works Director or his or her representative reserves the right of final decision.

#### **14.16A.330 Building Official. (14.12.110)**

The office of the Building Official is established to administer and enforce the building and construction codes. The rules, regulations and procedures under which the Building Official shall operate are established in Section 14.80.020, Building Official.

#### **14.16A.340 Design Review Board. (14.12.610)**

(a) The Design Review Board is created independent from the legislative functions to review and make urban design decisions that will promote visual quality throughout the City. The purpose of the Design Review Board and their procedure includes but is not limited by this reference to the following:

- (1) To encourage and promote aesthetically pleasing and functional neighborhood and commercial developments for the citizens of Lake Stevens by establishing Design Review standards including site layout, landscaping, parking and preferred architectural features;
- (2) To supplement land use regulation: promote a coordinated development of the unbuilt areas, lessen traffic congestion and accidents, secure safety from fire, provide light and air, prevent the overcrowding of land, and conserve and restore natural beauty and other natural resources;
- (3) To encourage originality, flexibility, and innovation in site planning and development, including the architecture, landscaping and graphic design of proposed developments in relation to the City or design area as a whole;
- (4) To discourage monotonous, drab, unsightly, dreary and inharmonious developments and to promote the orderliness of community growth, the protection and enhancement of property values for the community as a whole and as they relate to each other, the minimization of discordant and unsightly surroundings and visual blight, the avoidance of inappropriate and poor quality of design and other environmental and aesthetic considerations which generally enhance rather than detract from community standards and values for the comfort and prosperity of the community and the preservation of its natural beauty and other natural resources which are of proper and necessary concern of local government, and to promote and enhance construction and maintenance practices that will tend to prevent visual blight and enhance environmental and aesthetic quality for the community as a whole;
- (5) To aid in assuring that structures, signs and other improvements are properly related to their sites and the surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping and that proper attention is given to exterior appearances of structures, signs and other improvements;
- (6) To protect and enhance the City's pleasant environments for living and working and thus support and stimulate business and industry and promote the desirability of investment and occupancy in business and other properties;
- (7) To stabilize and improve property values and prevent blight areas to help provide an adequate tax base to the City to enable it to provide required services to its citizens;
- (8) To foster civic pride and community spirit by reason of the City's favorable environment and thus promote and protect the peace, health and welfare of the City and its citizens.

#### **(b) Authority and Duties.**

(1) The Design Review Board consists of the City Council members pursuant to Section 14.16A.370. The Planning Commission serves as an advisory body to the Design Review Board pursuant to Section 14.16A.360.

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(2) The Design Review Board shall review all structures and site features in specific zones and for specific regulations listed in Section 14.16C.050.

(c) Conflict of Interest. Members of the Design Review Board shall disqualify themselves from sitting as a member of the Board and shall not otherwise participate on behalf of themselves or any applicant in any Design Review Board actions in which they have an interest. An interest shall be deemed to include, but not be limited to, their own interest or the interest of a client or employer.

(d) Appeals of Design Review Board Decisions. Applicants and any interested party may appeal decisions of the Board pursuant to Section 14.16A.265, Appeals.

#### **14.16A.350 Hearing Examiner. (14.12.300-320)**

(a) The Hearing Examiner's Office is created independently from the legislative functions of developing and adopting basic goals, policies, plans, programs and regulatory codes by Chapter 2.48. The purpose of establishing a Hearing Examiner is to separate the application of land use regulations from policy making; to provide a level of expertise to conduct administrative and quasi-judicial hearings arising from the application of this title and the rules and procedures developed under it; to better protect and promote the interests of the community; and to expand the principles of fairness and due process in public hearings.

(b) Authority and Duties. The Hearing Examiner's authority and duties are provided in Chapter 2.48 and below:

##### **(1) Meetings of the Hearing Examiner.**

(i) The Hearing Examiner shall have no regularly scheduled meetings but shall meet on an as needed basis so that it can take action in conformity with Chapters 14.16A and 14.16B.

(ii) The Hearing Examiner shall conduct his meetings in accordance with the quasi-judicial procedures set forth in Chapters 14.16A and 14.16B.

(iii) All meetings of the Hearing Examiner, except for mediation proceedings, shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

##### **(2) Powers and Duties of the Hearing Examiner.**

(i) The Hearing Examiner shall hear and decide:

a. Applications for conditional use permits.

b. Appeals from any order, decision requirement, or interpretation made by the Planning Director or City Council.

c. Any other matter the Hearing Examiner is required to act upon by any other City ordinance.

(ii) In addition, the Hearing Examiner is invested in those duties and powers as specified in Chapter 2.48 (Hearing Examiner).

(iii) In carrying out the duties, the Examiner shall review available information, determine findings of fact from the record, and form conclusions in support of recommendations and decisions. The findings and conclusions shall also set forth the manner in which the recommendation or decision carries out and conforms to the regulations, goals and policies of the City. The Examiner shall have the power to issue summons to compel the appearance of witnesses, to preserve order, to reconsider decisions, and shall be free from the interference of individual City Council members, Planning Commission members, City officials, or any other person. The Hearing Examiner may also exercise administrative powers and such other quasi-judicial powers as may be granted by the City Council.

(iv) On a periodic basis or as the need arises, the Examiner shall report to the Planning Commission on recommended changes to Title 14 LSMC, the resolution of conflicts within it, and additions that address omissions.

(3) Appeals from Final Decisions. Appeals from final decisions of the Hearing Examiner shall be governed by Section 14.16A.265, Appeals.

#### **14.16A.360 Planning Commission. (14.12.400)**

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(a) A Planning Commission is created by Chapter 2.64 to involve residents of the City in advising the City Council on matters of community development.

(b) Authority and Duties. The Planning Commission's authority and duties are provided in Chapter 2.64 and below.

(1) Advisory to the Design Review Board. The Planning Commission shall serve as an advisory body to the Design Review Board. In this capacity, the Commission shall follow its normal procedures pursuant to Chapter 2.64 and shall base its recommendations on whether proposals conform with the City's Development Design Guidelines, as described in this title.

(2) Advisory to the City Council.

(i) The Planning Commission may make recommendations to the City Council based on its findings and conclusions and on those of its committees. It shall prepare the elements of the Comprehensive Plan or Title 14 LSMC for adoption or modification; advise the Council regarding comprehensive land use and development policy or special area concerns; and investigate and make recommendations on matters suggested by the Council, the Mayor, Lake Stevens citizens, or upon its own initiative. Ad hoc committees may be created for special studies.

(ii) The Planning Commission shall monitor the growth and development of the City and the areas surrounding the City and shall continually reevaluate and recommend revisions to the elements of the Comprehensive Plan or Land Use Code.

(iii) The Planning Commission shall forward to the Council a periodic report on the status of the Title 14 LSMC. The Planning Commission shall monitor the hearings of the Hearing Examiner in order to stay abreast of development activities and the concerns of the public.

(c) Public Hearings. The Planning Commission shall hold public hearings as required in Section 14.16A.260, Public Hearings. The Planning Commission may hold additional hearings and meetings as it sees fit to conduct its business.

#### **14.16A.370 City Council. (14.12.600)**

(a) The City Council makes decisions on changes in the text of this title and to the Official Zoning Map pursuant to Section 14.16C.090.

(b) Authority and Duties. The City Council's authority and duties are provided in Chapter 2.08. One duty is to serve as the Design Review Board.

(c) Public Hearings. The City Council shall hold public hearings as required in Section 14.16A.260.

(d) Public Hearings and Appeals. The City Council may hold additional hearings and meetings as it sees fit to conduct its business.

#### **14.16A.380 Park Board. (14.12.500)**

The authority, membership, powers, and duties of the Lake Stevens Park Board are established in Chapter 2.56 of the Lake Stevens Municipal Code.