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Chapter 14.16B TYPES OF LAND USE REVIEW (Redmond)

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14.16B.010 Classification.

Land use actions, permits and decisions shall be classified according to which procedures apply. In the following table, an “X” means the specified procedure (row) pertains to the specified permit type (column). Section 14.16A.210(d) Table I Classification of Permits and Decisions lists all land use actions, permits and decisions for each type of review.

Procedure Category	Permit Types					
	I	II	III	IV	V	VI
Unique permit submittal requirements & decision criteria apply	X	X	X	X	X	X
Public notice required		X	X	X	X	X
SEPA threshold determination required		?	?	X	?	?
Public hearing required			X	X	X	X
Design Review Board required		?	?	?	?	

X – required; ? – may be required depending on the project

Part 1 Type I Review: Administrative Decisions Without Public Notice

14.16B.105 Purpose.

A Type I review is an administrative review and decision by the appropriate department with no public notice requirements. These are applications which are categorically exempt from review under the State Environmental Policy Act (SEPA) or permits for which environmental review has been completed in connection with another application. Appeals of Type I decisions are made to the Hearing Examiner. Type I reviews are exempt from the procedures of Section 14.16A.230, Timeframes for Review. The purpose of this section is to provide the necessary steps for permit approvals requiring Type I review.

14.16B.110 Overview of Type I Review.

This section contains the procedures the City will use in processing Type I applications. The process begins with a complete application, followed by decision by the appropriate department. The administrative approval body is the Department Director. Appeals of the Director’s decision on a Type I appeal are made to the Hearing Examiner. An appeal of the Hearing Examiner’s appeal decision is made to the Snohomish County Superior Court.

14.16B.115 Type I Review Permit-Issuing Authority and Appeal Body.

Decisions on Type I applications are made by the appropriate department director or designee. The Permit-Issuing Authority and designated appeal body for each application reviewed as a Type I are indicated in Table I in Section 14.16A.210(d).

14.16B.120 Application Submittal.

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Application forms and submittal requirements for each of the Type I permits shall be prepared and maintained by the department responsible for issuing the decision on the application. Applications shall be submitted to the appropriate department.

14.16B.125 Public Notification.

Public notice is not required for Type I decisions.

14.16B.130 Administrative Decision.

A written record of the Type I decision shall be prepared in each case. The record may be in the form of a staff report, letter, the permit itself, or other written document and shall indicate whether the application has been approved, approved with conditions, or denied. The department decision shall be based on the applicable Land Use Code or other adopted uniform code and shall include any conditions to ensure consistency with the development regulations. The applicant shall be notified of the final decision. All other decisions are final upon expiration of any applicable appeal period, or if appealed, on the date of the appeal body's final decision on the application.

14.16B.135 Expiration of Approval.

Approval of the Type I application shall expire one year from the date approval was final unless significant action proposed in the application has been physically commenced and remains in progress pursuant to Section 14.16A.250.

14.16B.140 Appeal of Type I Decision.

An appeal of a Type I decision is made pursuant to Section 14.16B.710.

14.16B.145 Commencement of Activity.

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.

14.16B.150 Modification or Addition to an Approved Project or Decision.

Modifications or additions to approved projects or decisions shall be processed pursuant to Section 14.16C.025, Administrative Modifications.

Part 2 Type II Review: Administrative Decisions With Public Notice

14.16B.205 Purpose.

A Type II review is an administrative review and decision by the appropriate department . These are applications which are categorically exempt from review under the State Environmental Policy Act (SEPA) or permits for which environmental review has been completed in connection with another application. Public notification is provided at the application and decision stages of application review. Appeals of Type II decisions are made to the Hearing Examiner. Type II reviews are exempt from the procedures of Section 14.16A.230, Timeframes for Review. The purpose of this section is to provide the necessary steps for permit approvals requiring Type II review.

14.16B.210 Overview of Type II Review.

This section contains the procedures the City will use in processing Type II applications. The process begins with a complete application, followed by decision by the appropriate department. The administrative approval body is the Department Director. Appeals of the Director's decision on a Type II appeal are made to the Hearing Examiner, except shoreline permit appeals are made to the State Shoreline

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Hearings Board. An appeal of the Hearing Examiner’s appeal decision is made to the Snohomish County Superior Court.

14.16B.215 Type II Review Permit-Issuing Authority and Appeal Body.

(a) Decisions on Type II applications are made by the appropriate department director or designee. Appeals of Type II decisions are made to the appropriate appeal body. The Permit-Issuing Authority and designated appeal body for each application reviewed as a Type II are indicated in Table I in Section 14.16A.210(d).

14.16B.220 Application Submittal.

Application forms and submittal requirements for each of the Type II permits shall be prepared and maintained by the department responsible for issuing the decision on the application. Applications shall be submitted to the appropriate department.

14.16B. 225 Notice of Application.

(a) Notice of application for Type II permits shall be provided within 14 days of the determination of completeness pursuant to Section 14.16A.230, Timeframes for Review. Notice shall be provided as indicated in subsection (b) of this section.

(b) Notice of Application Requirements of Type II Review.

Type II Action or Permit	Mail	Post	Publish
ALL TYPE II ACTIONS AND PERMITS	X	X	X

(c) Mailed Notices and Postcard Notices. Mailings shall be completed pursuant to Section 14.16A.225 with the additional requirements for Shoreline Substantial Development Permits. In addition to required content listed above, notice of applications for Shoreline Substantial Development Permits must also contain the following information: A statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning the application as expeditiously as possible after issuance of the decision, may submit the comments or requests for decisions to the City within 30 days of the last date the notice is to be published pursuant to this section.

(d) Posted Notices. Posted notices shall be completed pursuant to Section 14.16A.225.

(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.

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

14.16A.230 Minimum Comment Period.

(a) The Notice of Application shall provide a minimum comment period of 14 days. All comments received on the Notice of Application must be received in the Permit Center by 4:00 p.m. on the last day of the comment period. Comments may be mailed, emailed, personally delivered or sent by facsimile. The Planning Director’s decision on a Type II application shall not be issued prior to the expiration of the minimum comment period.

(b) Comments should be submitted to the Department of Planning and Community Services as early in the review of an application as possible and should be as specific as possible.

(c) If early SEPA review is requested, as described in Section 16.08.015, the Planning Director shall combine the Notice of Application and DNS comment periods. When a final DNS is issued, there is no additional comment period.

(d) The Planning Director may accept and respond to public comments at any time prior to making the Type II decision.

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(e) Shoreline Substantial Development Permits. The minimum comment period for a Shoreline Substantial Development Permit shall be 30 days.

14.16B.235 Administrative Decision.

A written record of the Type II decision shall be prepared in each case. The record may be in the form of a staff report, letter, the permit itself, or other written document and shall indicate whether the application has been approved, approved with conditions, or denied. The department decision shall be based on the applicable Land Use Code or other adopted uniform code and shall include any conditions to ensure consistency with the development regulations. The applicant shall be notified of the final decision. All other decisions are final upon expiration of any applicable appeal period, or if appealed, on the date of the appeal body's final decision on the application.

14.16B.240 Notice of Decision. (14.92.110)

Within five days of a decision, the Planning Director shall mail or email notice of the decision and the SEPA determination, if any, to the applicant and to each person who submitted comments during the public comment period or at any time prior to issuance of the decision. The Notice of Decision shall include a statement of any threshold determination made under SEPA (Chapter 43.21C RCW) and the procedures for administrative appeal, if any. For those project permits subject to SEPA, the Notice of Decision on the issued permit shall contain the requirements set forth in Section 14.16A.120, Environmental Review. For shoreline development permits, the Planning Director shall notify the following persons in writing of its final approval or disapproval of a shoreline substantial development permit:

- (1) The applicant.
- (2) The Department of Ecology.
- (3) The Attorney General.
- (4) Any person who has submitted written comments on the application.
- (5) Any person who has written the Hearing Examiner requesting notification.

14.16B.245 Expiration of Approval.

Approval of the Type II application shall expire one year from the date approval was final unless significant action proposed in the application has been physically commenced and remains in progress pursuant to Section 14.16A.250.

14.16B.250 Appeal of Type II Decision.

An appeal of a Type II decision is made pursuant to Section 14.16B.710.

14.16B.255 Commencement of Activity.

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.

14.16B.260 Modification or Addition to an Approved Project or Decision.

Modifications or additions to approved projects or decisions shall be processed pursuant to Section 14.16C.025, Administrative Modifications.

Part 3 Type III Review: Quasi-Judicial, Hearing Examiner Decisions

14.16B.305 Purpose.

A Type III process is a quasi-judicial review and decision made by the Hearing Examiner. The Hearing Examiner makes a decision based on a recommendation from staff and, if required, the Design

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Review Board. A public meeting may be held prior to staff or 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, except shoreline permits are appealed to the State Shoreline Hearings Board. The purpose of this section is to provide the necessary steps for permit approvals requiring Type III review.

14.16B.310 Overview of Type III Review.

(a) This section contains the procedures the City will use in processing Type III applications. This process begins with a complete application, followed by notice to the public of the application and a public comment period, during which time an informational meeting may be held. The Permit-Issuing Authority and designated appeal body for each application reviewed as a Type II are indicated in Table I in Section 14.16A.210(d).

(b) If required by the State Environmental Policy Act, a threshold determination will be issued by the SEPA Official. The threshold determination shall be issued prior to the issuance of staff or Design Review Board’s recommendation on the application.

(c) Following issuance of the Design Review Board recommendation, if applicable, a public hearing will be held before the City Hearing Examiner.

(d) The Decision of the Hearing Examiner on a Type III application is appealable to the City Council, except shoreline permit appeals are made to the State Shoreline Hearings Board. The City Council action deciding the appeal and approving, approving with modifications, or denying a project is the final City decision on a Type III application. A final appeal may be made to the Snohomish County Superior Court.

14.16B.315 Notice of Application.

(a) Notice of application for Type III permits shall be provided within 14 days of the determination of completeness pursuant to Section 14.16A.230, Timeframes for Review. Notice shall be provided as indicated in subsection (b) of this section. If any open record pre-decision hearing is required for the requested project permit(s), the Notice of Application shall be provided at least 15 days prior to the open record hearing.

(b) Notice of Application Requirements of Type III Permits.

Type III Action or Permit	Mail	Post	Publish
ALL TYPE III ACTIONS AND PERMITS	X	X	X

(c) Mailed Notices and Postcard Notices. Mailings shall be completed pursuant to Section 14.16A.225 with the additional requirements stated below:

(1) Additional Notification Requirements for preliminary plats.

(i) Notice of the filing of a preliminary plat adjacent to or within one mile of the municipal boundaries of a city or town, or which contemplates the use of any city or town utilities, shall be given to the appropriate city or town authorities.

(ii) Notice of the filing of a preliminary plat of a proposed subdivision located in a city or town and adjoining the municipal boundaries thereof shall be given to the appropriate County officials.

(iii) Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right-of-way of a State highway or within two miles of the boundary of a State or municipal airport shall be given to the Secretary of Transportation.

(d) Posted Notices. Posted notices shall be completed pursuant to Section 14.16A.225 with the additional requirements stated in subsection (3) below:

(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.

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

(3) The following Type III applications are a major land use action: conditional use, preliminary plats and shoreline permits. In addition to the general notice requirements, major land use actions shall comply with the extraordinary signage requirements in Subsection 14.16A.225(b)(3).

14.16B.320 Minimum Comment Period.

(a) The Notice of Application shall provide a minimum comment period of 14 days. All comments received on the Notice of Application must be received in the Department of Planning and Community Development by 4:00 p.m. on the last day of the comment period. Comments may be mailed, emailed, personally delivered or sent by facsimile. Staff recommendation on a Type III application shall not be issued prior to the expiration of the minimum comment period.

(b) Comments should be submitted to staff as early in the review of an application as possible and should be as specific as possible.

(c) If the early SEPA review is requested, as described in Section 16.08.015, the Notice of Application and DNS comment periods shall be combined. When a final DNS is issued, there is no additional comment period.

(d) Staff may accept and respond to public comments at any time prior to the closing of the public hearing record.

14.16B.325 Public Meetings.

A public meeting shall be required for Type III applications except variances. Staff may require the applicant to participate in the meeting to inform citizens about the proposal. If a public meeting is planned, it shall be held as early in the review process as possible for Type III applications. Notice of the public meeting shall be provided in the same manner as required for the Notice of Application. The public meeting notice will be combined with the Notice of Application whenever possible.

14.16B.330 Environmental Review.

Environmental review includes a threshold determination and determination pursuant to Title 16, SEPA Procedures and Policies. Early SEPA review may be issued with the Notice of Application pursuant to Section 16.08.015.

14.16B.335 Staff Recommendation.

A written report from staff making a recommendation to the Hearing Examiner for approval, approval with conditions, or with modifications, or for denial shall be prepared. The staff recommendation shall be based on the applicable decision criteria and shall include any conditions necessary to ensure consistency with City development regulations.

14.16B.340 Notice of Public Hearing.

(a) Public notice of the date of the Hearing Examiner public hearing for the application shall be published in a newspaper of general circulation. The public notice shall also include a notice of availability of staff or Design Review Board recommendation. If a determination of significance was issued by the responsible official, the notice of staff or Design Review Board recommendation shall state whether an EIS or supplemental EIS was prepared or whether existing environmental documents were adopted. The public hearing shall be scheduled no sooner than 10 days following the date of publication of the notice.

(b) The Planning Director shall mail notice of the public hearing and the availability of the recommendation to each owner of real property within 300 feet of the project site.

(c) The Planning Director shall mail or email notice of the availability of the recommendation and the date of the public hearing to each person who submitted oral or written comments during the public comment period or at any time prior to the publication of the notice of recommendation.

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(d) The Planning Director shall post the notice of the date of the public hearing and the availability of the recommendation on-site and at City Hall. The Planning Director shall establish standards for size, color, layout, design, wording and placement of the notice boards.

14.16B.345 Hearing Examiner Public Hearing.

(a) Any person may participate in the Hearing Examiner public hearing on staff recommendation by submitting written comments to staff prior to the hearing or by submitting written comments or making oral comments at the hearing.

(b) The Department shall transmit to the Hearing Examiner a copy of the department file on the application including all written comments received prior to the hearing and information reviewed by or relied upon by staff. The file shall also include information to verify that the requirements for notice to the public (Notice of Application and Notice of SEPA Threshold Determination) have been met.

(c) The Department shall create a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing.

14.16B.350 Hearing Examiner Decision.

(a) The Hearing Examiner shall approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with the applicable decision criteria of this title. The applicant carries the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that the application merits approval or approval with modifications. In all other cases, the Hearing Examiner shall deny the application.

(b) If the Hearing Examiner requires a modification which results in a different proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to Section 14.16B.340, the Hearing Examiner shall conduct a new hearing on the modified proposal.

(c) The Hearing Examiner may include conditions to ensure a proposal conforms to the relevant decision criteria.

(d) The Hearing Examiner shall within 14 days following the close of the record distribute a written report supporting the decision. The report shall contain the following:

- (1) The decision of the Hearing Examiner;
- (2) Any conditions included as part of the decision;
- (3) Findings of fact upon which the decision, including any conditions, was based and the conclusions derived from those facts; and
- (4) A statement explaining the process to appeal the decision of the Hearing Examiner to the City Council.

(e) Reconsideration Period. Any person who participated in the hearing may file a written request with the Hearing Examiner for reconsideration within 10 business days of the date of the Hearing Examiner's decision. The request shall explicitly set forth alleged errors of procedure or fact. The Hearing Examiner shall act within 14 days after the filing of the request for an appeal by denying the request, issuing a revised decision, or calling for an additional public hearing.

14.16B.355 Notice of Final Decision.

Within five days of the conclusion of the appeal period, or the resolution of a filed appeal, the Planning Director shall mail or email the Notice of Final Decision and any changes to the SEPA threshold determination, if any, to the applicant and to each person who participated in the public hearing or who submitted comments during the public comment period at any time prior to issuance of the decision.

14.16B.360 Expiration of Approval.

Approval of the Type III application, except for preliminary plats, shall expire one year from the date approval was final unless significant action proposed in the application has been physically commenced

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and remains in progress pursuant to Section 14.16A.250. Preliminary plat approval shall terminate within five years pursuant to Section 14.16A.250(e).

14.16B.365 Appeal of Type III Decision.

An appeal of a Type III decision is made pursuant to Section 14.16B.720.

14.16B.370 Commencement of Activity.

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.

14.16B.375 Modification or Addition to an Approved Project or Decision.

Modifications or additions to approved projects or decisions shall be processed pursuant to Section 14.16C.025, Administrative Modifications.

**Part 4 Type IV Review: Quasi-Judicial, City Council Decisions
With Hearing Examiner Recommendation**

14.16B.405 Purpose.

A Type IV process is a quasi-judicial review and recommendation made by the Hearing Examiner and a decision made by the City Council. At an open record public hearing, the Hearing Examiner considers the recommendation from staff and, if required, the Design Review Board, as well as public testimony received at the 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 purpose of this section is to provide the necessary steps for permit approvals requiring Type IV review.

14.16B.410 Overview of Type IV Review.

(a) This section contains the procedures the City will use in processing Type IV applications. This process begins with a complete application, followed by notice to the public of the application and a public comment period, during which time an informational meeting may be held. The Permit-Issuing Authority and designated appeal body for each application reviewed as a Type IV are indicated in Table I in Section 14.16A.210(d).

(b) If required by the State Environmental Policy Act, a threshold determination will be issued by the SEPA Official. The threshold determination shall be issued prior to the issuance of staff or Design Review Board's recommendation on the application.

(c) Following issuance of staff or Design Review Board recommendation, a public hearing will be held before the City Hearing Examiner.

(d) The recommendation of the Hearing Examiner on a Type IV application is forwarded to the City Council. The City Council action approving, approving with modifications, or denying a Type IV application is the final City decision.

14.16B.415 Notice of Application.

(a) Notice of application for Type IV permits shall be provided within 14 days of the determination of completeness pursuant to Section 14.16A.230, Timeframes for Review. Notice shall be provided as indicated in subsection (b) of this section. If any open record pre-decision hearing is required for the requested project permit(s), the Notice of Application shall be provided at least 15 days prior to the open record hearing.

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(b) Notice of Application Requirements of Type IV Review.

Type IV Action or Permit	Mail	Post	Publish
ALL TYPE IV ACTIONS AND PERMITS	X	X	X

(c) Mailed Notices and Postcard Notices. Mailings shall be completed pursuant to Section 14.16A.225.

(d) Posted Notices. Posted notices shall be completed pursuant to Section 14.16A.225 with the additional requirements stated in subsection (3) below:

(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.

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

(3) The following Type IV application is a major land use actions: planned neighborhood developments. In addition to the general notice requirements, major land use actions shall comply with the extraordinary signage requirements in Subsection 14.16A.225(b)(3).

14.16B.420 Minimum Comment Period.

(a) The Notice of Application shall provide a minimum comment period of 14 days. All comments received on the Notice of Application must be received in the Department of Planning and Community Development by 4:00 p.m. on the last day of the comment period. Comments may be mailed, emailed, personally delivered or sent by facsimile. Staff recommendation on a Type IV application shall not be issued prior to the expiration of the minimum comment period.

(b) Comments should be submitted to staff as early in the review of an application as possible and should be as specific as possible.

(c) If early SEPA review is used, as described in Section 16.08.015, the Notice of Application and DNS comment periods shall be combined. When a final DNS is issued, there is no additional comment period.

(d) Staff may accept and respond to public comments at any time prior to the closing of the public hearing record.

14.16B.425 Public Meetings.

A public meeting may be required for all Type IV applications. Staff may require the applicant to participate in the meeting to inform citizens about the proposal. If a public meeting is planned, it shall be held as early in the review process as possible for Type IV applications. Notice of the public meeting shall be provided in the same manner as required for the Notice of Application. The public meeting notice will be combined with the Notice of Application whenever possible.

14.16B.430 Environmental Review.

Environmental review includes a threshold determination and determination pursuant to Title 16, SEPA Procedures and Policies. Early SEPA review may be issued with the Notice of Application pursuant to Section 16.08.015.

14.16B.435 Staff Recommendation.

A written report from staff making a recommendation to the Hearing Examiner for approval, approval with conditions, or with modifications, or for denial shall be prepared. Staff recommendation shall be based on the applicable decision criteria and shall include any conditions necessary to ensure consistency with City development regulations.

14.16B.440 Notice of Public Hearing.

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(a) Public notice of the date of the Hearing Examiner public hearing for the application shall be published in a newspaper of general circulation. The public notice shall also include a notice of the availability of the staff or Design Review Board recommendation. If a determination of significance was issued by the SEPA Official, the notice of staff or Design Review Board recommendation shall state whether an EIS or supplemental EIS was prepared or whether existing environmental documents were adopted. The public hearing shall be scheduled no sooner than 10 days following the date of publication of the notice.

(b) The Planning Director shall mail or email notice of the availability of the recommendation and the date of the public hearing to each person who submitted comments during the public comment period or at any time prior to the publication of the notice of recommendation.

(c) The Planning Director shall mail notice of the public hearing and the availability of the recommendation to each owner of real property within 300 feet of the project site.

(d) The Planning Director shall post the notice of the date of the public hearing and the availability of the recommendation on-site and at City Hall. The Planning Director shall establish standards for size, color, layout, design, wording and placement of the notice boards.

14.16B.445 Hearing Examiner Public Hearing.

(a) Any person may participate in the Hearing Examiner public hearing on staff recommendation by submitting written comments to staff prior to the hearing or by submitting written comments or making oral comments at the hearing.

(b) The Planning Director shall transmit to the Hearing Examiner a copy of the department file on the application including all written comments received prior to the hearing and information reviewed by or relied upon by staff. The file shall also include information to verify that the requirements for notice to the public (Notice of Application and Notice of SEPA Determination) have been met.

(c) The Department shall create a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing.

14.16B.450 Hearing Examiner Recommendation.

(a) The Hearing Examiner shall make a written recommendation to approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with the applicable decision criteria of this title. The applicant carries the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that the application merits approval or approval with modifications. In all other cases, the Hearing Examiner shall make a recommendation to deny the application.

(b) If the Hearing Examiner makes a recommendation that requires a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to Section 14.16B.440, the Hearing Examiner shall conduct a new hearing on the modified proposal.

(c) The Hearing Examiner may include conditions in the recommendation to ensure a proposal conforms to the relevant decision criteria.

(d) The Hearing Examiner shall within 14 days following the close of the record distribute a written report supporting the decision. The report shall contain the following:

- (1) The recommendation of the Hearing Examiner;
- (2) Any conditions included as part of the recommendation; and
- (3) Findings of fact upon which the recommendation, including any conditions, was based and the conclusions derived from those facts.

(e) The office of the Hearing Examiner shall mail or email the written recommendation, bearing the date it is mailed, and notice of the Council meeting, to each person included in the parties of record.

(f) Reconsideration Period. Any party of record may file a written request with the Hearing Examiner for reconsideration within 10 business days of the date of the Hearing Examiner's decision. The request shall explicitly set forth alleged errors of procedure or fact. The Hearing Examiner shall act within

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14 days after the filing of the request for an appeal by denying the request, issuing a revised decision, or calling for an additional public hearing.

14.16B.455 City Council Decision.

(a) The Planning Director shall transmit to the City Council a copy of the department file on the application including all written comments received prior to the City Council meeting and information reviewed by or relied upon by the Hearing Examiner. The file shall also include information to verify that the requirements for notice to the public (Notice of Application, Notice of Public Hearing, and Notice of SEPA Determination) have been met.

(b) The City Council shall, at the public meeting, consider and take final action on each Type IV application.

(c) The City Council shall conduct a closed record public meeting. The City Council shall not accept new information, written or oral, on the application, but shall consider the following in deciding upon an application:

- (1) The complete record developed before the Hearing Examiner; and
- (2) The recommendation of the Hearing Examiner.

(d) The City Council shall either:

- (1) Approve the application; or
- (2) Approve the application with modifications; or
- (3) Remand the application to the Hearing Examiner for an additional review limited to specific issues identified by the Council; or
- (4) Deny the application, based on findings of fact and conclusions derived from those facts which support the decision of the Council.

(e) Ordinance.

(1) Conditions. The City Council may, based on the record, include conditions in any ordinance approving or approving with modifications an application in order to ensure conformance with the approval criteria specified in the code or process under which the application was made.

(2) Findings of Fact. The City Council shall include findings of fact and conclusions derived from those facts which support the decision of the Council, including any conditions, in the ordinance approving or approving with modifications the application. The City Council may, by reference, adopt some or all of the findings and conclusions of the Hearing Examiner.

(3) Required Vote. The City Council shall adopt an ordinance which approves or approves with modifications the application by a majority vote of the membership of the City Council.

14.16B.460 Notice of Decision.

Within five days of a decision, the Planning Director shall mail or email the Notice of Final Decision and the final SEPA determination, if any, to the applicant and to each person who participated in the public hearing or who submitted comments during the public comment period at any time prior to issuance of the decision.

14.16B.465 Expiration of Approval.

Approval of the Type IV application, except Zoning Map amendments and essential public facilities, shall expire one year from the date approval was final unless significant action proposed in the application has been physically commenced and remains in progress pursuant to Section 14.16A.250.

14.16B.470 Appeal of Type IV Decision.

An appeal of a Type IV decision is made pursuant to Section 14.16B.730.

14.16B.475 Commencement of Activity.

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

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imminent peril to life or property. In which case, proceedings shall not be stayed except by order of the Hearing Examiner or a court.

14.16B.480 Modification or Addition to an Approved Project or Decision.

Modifications or additions to approved projects or decisions shall be processed pursuant to Section 14.16C.025, Administrative Modifications.

**Part 5 Type V Review: Quasi-Judicial, City Council Decisions
With Planning Commission Recommendation**

14.16B.505 Purpose.

A Type V process is a quasi-judicial review and decision made by the City Council. Staff makes a recommendation to the City Council. Depending on the application, staff may conduct a public meeting to obtain public input. The City Council shall hold a public hearing on the application prior to making a decision. 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 purpose of this section is to provide the necessary steps for permit approvals requiring Type V review.

14.16B.510 Overview of Type V Review.

This section contains the procedures the City will use in processing Type V applications. The process is similar to Type III, except that staff makes a recommendation to the City Council instead of the Hearing Examiner. The Permit-Issuing Authority and designated appeal body for each application reviewed as a Type V are indicated in Table I in Section 14.16A.210(d).

14.16B.515 Notice of Application.

(a) Notice of application for Type V permits shall be provided within 14 days of the determination of completeness pursuant to Section 14.16A.230, Timeframes for Review. Notice shall be provided as indicated in subsection (b) of this section. If any open record pre-decision hearing is required for the requested project permit(s), the Notice of Application shall be provided at least 15 days prior to the open record hearing.

(b) Notice of Application Requirements of Type V Permits.

Type V Action or Permit	Mail	Post	Publish
ALL TYPE V ACTIONS AND PERMITS	X	X	X

(c) Mailed Notices and Postcard Notices. Mailings shall be completed pursuant to Section 14.16A.225.

(d) Posted Notices. Posted notices shall be completed pursuant to Section 14.16A.225 with the additional requirements stated in subsection (3) below:

(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.

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

(3) For annexations, a minimum of three public notice boards shall be posted in public locations such as public right-of-way within the territory proposed for annexation. One of those three signs shall meet the requirements in subsection (d)(4) of this section.

(4) Additional Requirements – Right-of-Way Vacation. A written notice giving 20 days’ notice of the pendency of the petition for vacation shall be posted in three of the most public places in the city and a like notice in conspicuous place on the street or alley sought to be vacated.

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14.16B.520 Minimum Comment Period.

(a) The Notice of Application shall provide a minimum comment period of 14 days. All comments received on the Notice of Application must be received in the Department of Planning and Community Development by 4:00 p.m. on the last day of the comment period. Comments may be mailed, emailed, personally delivered or sent by facsimile. Staff recommendation on a Type V application shall not be issued prior to the expiration of the minimum comment period.

(b) Comments should be submitted to staff as early in the review of an application as possible and should be as specific as possible.

(c) If the early SEPA review is requested, as described in Section 16.08.015, the Notice of Application and DNS comment periods shall be combined. When a final DNS is issued, there is no additional comment period.

(d) Staff may accept and respond to public comments at any time prior to the closing of the public hearing record.

14.16B.525 Public Meetings.

A public meeting is required for all Type V applications. Staff may require the applicant to participate in the meeting to inform citizens about the proposal. If a public meeting is planned, it shall be held as early in the review process as possible for Type V applications. Notice of the public meeting shall be provided in the same manner as required for notice of the application. The public meeting notice will be combined with the Notice of Application whenever possible.

14.16B.530 Environmental Review.

Environmental review includes a threshold determination and determination pursuant to Title 16, SEPA Procedures and Policies. Early SEPA review may be issued with the Notice of Application pursuant to Section 16.08.015.

14.16B.535 Staff Recommendation.

A written report from staff making a recommendation to the City Council for approval, approval with conditions, or with modifications, or for denial shall be prepared. Staff recommendation shall be based on the applicable decision criteria and shall include any conditions necessary to ensure consistency with City development regulations.

14.16B.540 Notice of City Council Public Hearing.

(1) Public notice of the date of the City Council public hearing at which the City Council will consider the application shall be published in a newspaper of general circulation. The public hearing shall be scheduled no sooner than 14 days following the date of publication of the notice. If a determination of significance was issued by the SEPA Official, the notice of staff recommendation shall state whether an EIS or supplemental EIS was prepared or whether existing environmental documents were adopted. The notice of the City Council meeting shall also include the notice of the availability of staff recommendation.

(2) The Planning Director shall mail or email notice of the City Council public hearing, the SEPA determination and the notice of the availability of staff recommendation to each person who submitted comments during the public comment period or at any time prior to the publication of the notice of recommendation.

14.16B.545 City Council Decision.

(a) Within five days of a decision, the Planning Director shall transmit to the City Council a copy of the department file on the application including all written comments received prior to the City Council Meeting and information reviewed by or relied upon by staff. The file shall also include information to

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verify that the requirements for notice to the public (Notice of Application, Notice of Public Hearing, and Notice of SEPA Determination) have been met.

(b) Any person may participate in the City Council public hearing on staff recommendation by submitting written comments to the Department of Planning and Community Development prior to the hearing or by submitting written comments or making oral comments at the hearing.

(c) The City Council shall, at the open record public hearing, consider and take final action on each Type V application. The final action may take place in the same meeting as the public hearing, if any.

(d) The City Council shall either:

(1) Approve the application;

(2) Approve the application with modifications;

(3) Remand the application to staff for an additional review limited to specific issues identified by the Council; or

(4) Deny the application.

(e) Ordinance.

(1) Conditions. The City Council may, based on the record, include conditions in any ordinance approving or approving with modifications an application in order to ensure conformance with the approval criteria specified in the code or process under which the application was made.

(2) Findings of Fact. The City Council shall include findings of fact and conclusions derived from those facts which support the decision of the Council, including any conditions, in the ordinance approving or approving with modifications the application. The City Council may by reference adopt some or all of the findings and conclusions of staff.

(3) Required Vote. The City Council shall adopt an ordinance which approves or approves with modifications the application by a majority vote of the membership of the City Council.

14.16B.550 Notice of Final Decision.

The Planning Director shall mail or email a Notice of Final Decision and the final SEPA determination, if any, to the applicant and to each person who participated in the public hearing or who submitted comments during the public comment period at any time prior to issuance of the decision.

14.16B.555 Expiration of Approval.

Approval of the Type V application, except for right-of-way vacations, shall expire five years from the date approval was final unless significant action proposed in the application has been physically commenced and remains in progress pursuant to Section 14.16A.250. Right-of-Way vacations shall expire in one year from the date approved pursuant to Section 14.16A.250.

14.16B.560 Appeal of Type V Decision.

An appeal of a Type V decision is made pursuant to Section 14.16B.740.

14.16B.565 Commencement of Activity.

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.

14.16B.570 Modification or Addition to an Approved Project or Decision.

Modifications or additions to approved projects or decisions shall be processed pursuant to Section 14.16C.025, Administrative Modifications.

Part 6 Type VI Review: Legislative, City Council Decisions

14.16B.605 Purpose.

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A Type VI review is for legislative land use 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 process includes a hearing and recommendation by the Planning Commission and an action by the City Council. Review under the State Environmental Policy Act (SEPA) may be required. Type VI reviews are exempt from the procedures of Section 14.16A.230, Timeframes for Review.

14.16B.610 Overview of Type VI Review.

This section contains the procedures the City will use in processing Type VI applications. Type VI processes may be initiated by City Council, Planning Commission, city administration, or any other person. The Planning Commission will hold a public hearing and send a recommendation to City Council. City Council will hold a public hearing before taking action. The Permit-Issuing Authority and designated appeal body for each application reviewed as a Type VI are indicated in Table I in Section 14.16A.210(d).

14.16B.615 Amendments in General. (14.96)

(a) Amendments to the Comprehensive Plan, Title 14 or to the zoning map shall be made in accordance with the provisions of this chapter.

(b) The term major map amendment shall refer to an amendment that addresses the zoning classification of five or more tracts of land in separate ownership or any parcel of land (regardless of the number of lots or owners) in excess of 50 acres. All other amendments to the zoning map shall be referred to as minor map amendments.

14.16B.620 Initiation of Amendments. (14.96)

(a) Type VI applications may be initiated by the City Council, the Planning Commission, or the city administration.

(b) Any other person may also petition the council to amend the comprehensive plan, this title or the zoning map. The petition shall be filed with the Planning Director and shall include:

- (1) The name, address, and phone number of the applicant.
- (2) A description of all land proposed to be rezoned.
- (3) Electronic file with the names and addresses of all those to whom notice of the public hearing must be sent as provided in Section 14.16B.630, and
- (4) A rationale for the proposed map change or articulation of the specific objective(s) of any proposed text amendments.

(c) Upon receipt of a petition, the Planning Director shall either:

- (1) Treat the proposed amendment as one initiated by the city administration and proceed in accordance with Subsection (a) if it is determined that the proposed amendment may have significant merit and may benefit the general public, or
- (2) Forward the petition to the council for a determination on whether to accept and review the petition. The council may summarily deny the petition or refer it to the Planning Commission for a recommendation.

14.16B.625 Planning Commission Review.

(a) Type VI proposals will usually be introduced to the Planning Commission, which may schedule study sessions as needed to consider the proposal. Prior to making a recommendation, the Planning Commission shall schedule a public hearing. After the public hearing, and after any further study sessions as may be needed, the Planning Commission shall transmit its recommendation to the City Council through the applicable department director and the City Clerk.

(b) The Planning Commission may recommend that the City Council adopt or adopt with modifications a proposal if it complies with the applicable decision criteria. In all other cases, the Planning Commission shall recommend denial of the proposal.

(c) If the Planning Commission recommends a modification which results in a proposal not reasonably foreseeable from the notice provided pursuant to Section 14.16B.630, the Planning

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Commission shall conduct a new public hearing on the proposal as modified. The Planning Commission shall consider the public comments at the hearing in making its final recommendation.

(d) A vote to recommend adoption of the proposal or adoption with modification must be by a majority vote of the Planning Commission members present and voting.

(e) Amendments to the following are not required for review before the Planning Commission:

- (1) Chapter 14.60 (Utilities).
- (2) Chapter 14.80 (Building and Construction).
- (3) Chapter 14.84 (Fire Code).

14.16B.630 Notice of Public Hearing. (14.96.040)

(a) When the Planning Commission or City Council has scheduled a public hearing on a Type VI proposal, Notice of the Public Hearing shall be provided 10 days prior to the scheduled hearing date in the manner set forth in subsection (b) of this section.

(b) Notice of Public Hearing.

Type VI Action or Permit	Mail	Post	Publish
Comprehensive Plan Amendment – Map & Text	X	X	X
Development Agreements			X
Land Use Code Amendments			X
Rezone – Area-Wide Zoning Map Amendment		X	X

(c) Published Notice. When required, the applicable department director shall publish a notice twice in a newspaper of general circulation in the City. The notice shall contain the following information:

- (1) The name of the applicant, and if applicable, the project name;
- (2) If the application involves specific property, the street address of the subject property, a description in non-legal terms sufficient to identify its location, and a vicinity map indicating the subject property or website address where maps can be viewed;
- (3) A brief description of the action or approval requested;
- (4) The date, time, and place of the public hearing;
- (5) Summarize the nature and character of the proposed change;
- (6) If the proposed amendment involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
- (7) State that the full text of the amendment can be obtained from the Department of Planning and Development Services;
- (8) State that substantial changes in the proposed amendment may be made following the public hearing and
- (9) A statement of the right of any person to participate in the public hearing.

(d) Mailed Notices and Postcard Notices.

(1) For minor map amendments, notices shall be mailed to the record owners for tax purposes of all properties whose zoning classification is proposed to be changed, as well as the owners of all properties which are within 150 feet of the property proposed to be rezoned. Notice of the public hearing, containing the same information set forth in subsection (c) of this section, shall be mailed to each owner of real property within 300 feet of any boundary of the subject property, or 20 property owners (whichever is greater). 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.

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(2) Notice shall be mailed or emailed to each person who has requested such notice.

(3) 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.

(4) 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.

(e) Posted Notices.

(1) All posted notices shall be completed pursuant to Section 14.16A.225.

(2) For minor map amendments, at least one public notice board shall be posted on the site on public right-of-way within the property proposed to be rezoned.

(3) For major map amendments, a minimum of three public notice boards shall be posted on public right-of-way.

(4) The following Type VI application is a major land use action: Zoning Map Amendment. In addition to the general notice requirements, major land use actions shall comply with the extraordinary signage requirements in Subsection 14.16A.225(b)(3).

(f) Alternative Means of Notification. In the case of the following actions initiated by the City, which affect large areas of the City, the Planning Director may elect to use alternative means of public notification in addition to the newspaper publication required by RCW 35A.63.070 or the mail and posting provisions above, provided such notification is likely to achieve equal or greater actual public notification:

(1) Adoption or amendment of a neighborhood or other area-wide community plan;

(2) Zoning Map Amendments adopted on a neighborhood or other area-wide basis.

14.16B.635 Notice of Planning Commission Public Hearing.

Public notice of the date of the Planning Commission public hearing at which the Planning Commission will consider the application shall be published in a newspaper of general circulation. The public hearing shall be scheduled no sooner than 10 days following the date of publication of the notice. If a determination of significance was issued by the SEPA Official, the notice of staff recommendation shall state whether an EIS or supplemental EIS was prepared or whether existing environmental documents were adopted.

14.16B.640 Planning Commission Public Hearing.

(a) Any person may participate in the public hearing by submitting written comment to the applicable department director prior to the hearing or by submitting written or making oral comments to the Planning Commission at the hearing. All written comments received by the applicable department director shall be transmitted to the Planning Commission no later than the date of the public hearing.

(b) The Planning Director shall transmit to the Planning Commission a copy of the department file on the application including all written comments received prior to the hearing and information reviewed by or relied upon by staff. The file shall also include information to verify that the requirements for notice to the public (Notice of Application, as required; Notice of SEPA Determination) have been met.

(c) The Planning Commission shall record and compile written minutes of each hearing.

14.16B.645 Planning Commission Recommendation.

(a) The Planning Commission shall provide a written recommendation to the City Council on the proposal. The recommendation shall contain the following:

(1) The recommendation of the Planning Commission;

(2) Any conditions included as part of the recommendation; and

(3) Findings of fact upon which the recommendation, including any conditions, was based and the conclusions derived from those facts.

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(b) If the Planning Commission makes a recommendation that requires a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to Section 14.16A.630, the Planning Commission shall conduct a new hearing on the modified proposal.

14.16A.650 Notice of City Council Public Hearing.

(a) Public notice of the date of the City Council public hearing at which the City Council will consider the application shall be published in a newspaper of general circulation. The public hearing shall be scheduled no sooner than 10 days following the date of publication of the notice. The notice of the City Council public hearing shall also include the notice of the availability of the Planning Commission's recommendation.

(b) The Planning Director shall mail or email notice of the public hearing, the SEPA threshold determination and the availability of the recommendation to each person who submitted comments during the public comment period or at any time prior to the publication of the notice of the public hearing.

14.16B.655 City Council Action. (14.96.030)

(a) Provided the requirements of the Growth Management Act for ensuring adequate public involvement are met, the Council need not await the recommendations of the Planning Commission before taking action on a proposed amendment, nor is the Council bound by any recommendations of the Planning Commission.

(b) The Planning Director shall transmit to the City Council a copy of the department file on the application, including all written comments received prior to the City Council hearing. The file shall also include information to verify that the requirements for notice to the public (Notice of Application, notice of SEPA threshold determination, and Notice of Public Hearing) have been met.

(c) The City Council shall consider at a public meeting each recommendation transmitted by the Planning Commission. The Council may take one of the following actions:

- (1) Adopt an ordinance or resolution adopting the recommendation, or adopt the recommendation with modifications;
- (2) Adopt a motion denying the proposal; or
- (3) Refer the proposal back to the Planning Commission for further proceedings, in which case the City Council shall specify the time within which the Planning Commission shall report back to the City Council with a recommendation.

(d) If the City Council makes a modification which results in a proposal not reasonably foreseeable from the notice provided pursuant to Section 14.16A.630, the City Council shall conduct a new public hearing on the proposal as modified, prior to taking final action.

14.16B.660 Appeal of Type VI Decision.

An appeal of a Type VI decision is made pursuant to Section 14.16B.750.

Part 7 Appeals

14.16B.710 Appeal of Type I and II Administrative Decisions. (14.16.400)

If a Type I or II decision has an administrative appeal available as set forth in sections 14.16B.115 or 14.16B.215, except for shoreline permits, the following procedures shall be followed:

(a) Appellant. The project applicant or any person who submitted written comments prior to the date the decision was issued may appeal the decision.

(b) Form of Appeal. A person appealing a Type I or II decision must submit a completed appeal form which sets forth:

- (1) Facts demonstrating that the person is adversely affected by the decision;
- (2) A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;

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- (3) The specific relief requested; and
- (4) Any other information reasonably necessary to make a decision on the appeal.

(c) Time to Appeal. The written appeal and the appeal fee, if any, must be received by the Department of Planning and Community Development no later than 4:00 p.m. on the fourteenth day following the date of the decision of the department.

(d) Notice of Appeal. If a Type I or II decision is appealed, a hearing before the designated appeal body (as established in the table in sections 14.16B.115 or 14.16B.215) shall be set and notice of the hearing shall be mailed or emailed to the appellant, the applicant, and all parties of record by the applicable department director. Notice shall be mailed or emailed no less than 10 days prior to the appeal hearing, except that if the Type I or II decision has been consolidated with a recommendation on a Type III or IV application, any appeal of the Type I decision shall be consolidated with the Type III or IV public hearing. No separate notice of a Type I or II appeal needs to be provided if the public hearing has already been scheduled for the Type III or IV component of an application.

(e) Hearing Examiner.

(1) Public Hearing. The Hearing Examiner shall conduct an open record hearing on a Type I or II appeal. The appellant, the applicant, and the City shall be designated parties to the appeal. Each party may participate in the appeal hearing by presenting testimony or calling witnesses to present testimony. Interested persons, groups, associations, or other entities who have not appealed may participate only if called by one of the parties to present information; provided, that the Examiner may allow nonparties to present relevant testimony if allowed under the Examiner rules of procedure.

(2) Decision on Appeal.

(i) Within 14 days after the close of the record for the Type I appeal, the Hearing Examiner shall issue a written decision to grant, grant with modifications, or deny the appeal. The Hearing Examiner may grant the appeal or grant the appeal with modification if:

- a. The appellant has carried the burden of proof; and
- b. The Examiner finds that the Type I decision is not supported by a preponderance of the evidence.

(ii) The Hearing Examiner shall accord substantial weight to the decision of the applicable department director.

(iii) Reconsideration Period. Any person who participated in the hearing may file a written request with the Hearing Examiner for reconsideration within 10 business days of the date of the Hearing Examiner's decision. The request shall explicitly set forth alleged errors of procedure or fact. The Hearing Examiner shall act within 14 days after the filing of the request for an appeal by denying the request, issuing a revised decision, or calling for an additional public hearing.

(f) Appeal of Hearing Examiner Decision on Appeal. A Hearing Examiner decision on a Type I appeal may be appealed to the Snohomish County Superior Court by filing a land use petition which meets the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in State law and within the 21-day time period as set forth in RCW 36.70C.040. Requirements for fully exhausting City administrative appeal opportunities must be fulfilled.

(h) Time Period to Complete Appeal Process. In all cases, except where the parties to an appeal have agreed to an extended time period, the administrative appeal process generally shall be completed within 90 days from the date the original administrative appeal period closed. The administrative appeal process shall be deemed complete on the date of issuance of the Hearing Examiner's decision or the City Council's decision on the appeal.

(i) Shoreline Permit Appeals. An appeal of a Shoreline Substantial Development Permit shall be to the State Shoreline Hearings Board and shall be filed within 21 days of the receipt of the City's decision by the Department of Ecology, as set forth in RCW 90.58.180.

14.16B.720 Appeal of Type III Hearing Examiner Decisions

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(a) Except for shoreline conditional use or shoreline variance, a Type III decision of the Hearing Examiner may be appealed to the City Council as follows:

(1) Appellant. The project applicant or any person who participated in the public hearing or by the applicant or the City.

(2) A person appealing a Type III, Hearing Examiner decision must file at the Department of Planning and Community Development a completed appeal form, including a written statement of the findings of fact or conclusions which are being appealed.

(3) Time and Place to Appeal. The appeal form, the written statement of appeal, and the appeal fee, if any, must be received by the Department of Planning and Community Development no later than 4:00 p.m. on the fourteenth day following the expiration of the reconsideration period.

(4) Hearing Required. The City Council shall conduct a closed record appeal hearing in order to decide upon an appeal of the decision of the Hearing Examiner. The decision on any such appeal shall be made within such time as is required by applicable State law.

(5) Public Notice of Appeal Hearing.

(i) Contents of Notice. The Planning Director shall prepare a Notice of Appeal Hearing containing the following:

- a. The name of the appellant, and, if applicable, the project name and number, and
- b. The street address of the subject property and a description in non-legal terms sufficient to identify its location, and
- c. A brief description of the decision of the Hearing Examiner which is being appealed, and
- d. The date, time, and place of the appeal hearing before the City Council.

(ii) Time and Provision of Notice. The Planning Director shall mail or email the Notice of Appeal Hearing on an appeal of the decision of the Hearing Examiner no less than 10 days prior to the appeal hearing to each person entitled to participate in the appeal pursuant to subsection (a)(6)(i) of this section.

(6) Closed Record Hearing on Appeal to City Council.

(i) Who May Participate. The applicant, the appellant, the applicable department director, or representatives of these parties may participate in the appeal hearing.

(ii) How to Participate. A person entitled to participate may participate in the appeal hearing by:

- a. Submitting written argument on the appeal to the City Clerk no later than the date specified in the City Council's rules of procedure; or
- b. Making oral argument on the appeal to the City Council at the appeal hearing.

Argument on the appeal is limited to information contained in the record developed before the Hearing Examiner and must specify the findings or conclusions which are the subject of the appeal, as well as the relief requested from the Council.

(iii) Hearing Record. The City Council shall make an electronic sound recording of each appeal hearing.

(iv) Testimony. Testimony or other evidence and information not presented to the Hearing Examiner shall not be considered. The decision by the City Council shall be made only on the basis of facts presented at the hearing. If the City Council finds there is good reason to take additional evidence, the Council may remand the matter for reconsideration by the Hearing Examiner in light of the additional information.

(v) Decision. When the City Council has not conducted a public hearing it shall uphold the decision of the Hearing Examiner unless, based upon the record of the Hearing Examiner's proceedings, it is determined that the Hearing Examiner's decision is clearly erroneous.

(7) City Council Decision on Appeal.

(i) Criteria. The City Council may grant the appeal or grant the appeal with modifications if the appellant has carried the burden of proof and City Council finds that the decision of the Hearing

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Examiner is not supported by a preponderance of the evidence. In all other cases, the appeal shall be denied. The City Council shall accord substantial weight to the decision of the Hearing Examiner.

(ii) Conditions. The City Council may impose conditions as part of the granting of an appeal or granting of an appeal with modification to ensure conformance with the criteria under which the application was made.

(iii) Findings. The City Council shall adopt findings and conclusions which support its decision on the appeal.

(iv) Required Vote. A vote to grant the appeal or grant the appeal with modifications must be by a majority vote of the membership of the City Council. A tie vote shall be decided by the vote of the Mayor. Any other vote constitutes denial of the appeal.

(b) Appeal of City Council Decision on Appeal. The decision of the City Council on the application is the final decision of the City and may be appealed to Superior Court by filing a land use petition which meets the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in State law and within the 21-day time period as set forth in RCW 36.70C.040.

(c) Appeals of shoreline conditional use permits or shoreline variances shall be to the State Shoreline Hearings Board and shall be filed within 21 days of the receipt of the City's decision by the Department of Ecology, as set forth in RCW 90.58.180.

14.16B.730 Appeal of Type IV Quasi-Judicial, City Council Decisions with Hearing Examiner Recommendation. The decision of the City Council on the Type IV application is the final decision of the City and may be appealed to Snohomish County Superior Court by filing a land use petition which meets the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in State law and within the 21-day time period as set forth in RCW 36.70C.040. The appeal period shall commence upon expiration of the reconsideration period.

14.16B.740 Appeal of Type V Quasi-Judicial, City Council Decisions.

The decision of the City Council on the Type V application is the final decision of the City and may be appealed to Snohomish County Superior Court by filing a land use petition which meets the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in State law and within the 21-day time period as set forth in RCW 36.70C.040. The appeal period shall commence upon expiration of the reconsideration period.

14.16B.750 Appeal of Type VI Legislative, City Council Decisions with Planning Commission Recommendation.

The action of the City Council on a Type IV proposal may be appealed together with any SEPA threshold determination by filing a petition with the Growth Management Hearings Board pursuant to the requirements set forth in RCW 36.70A.290. The petition must be filed within the 60-day time period set forth in RCW 36.70A.290(2). The appeal period shall commence upon expiration of the reconsideration period. Judicial Appeal is to Snohomish County Superior Court.