

ANACORTES PLANNING COMMISSION



NOVEMBER 23, 2016

Municipal Building Council Chambers

6th Street and "Q" Avenue

AGENDA

6 P.M.

1. **Roll Call**
2. **Minutes of October 26, 2016 & November 9, 2016**
3. **Correspondence**
4. **Old Business**
 - a. **Public Hearing:** Draft Title 19, Unified Development Code - Proposed code amendments relating to establishing clear, straight forward land use permit review procedures, including proposed use of a Hearing Examiner for certain types of permits; and including general provisions, definitions, legislative actions, procedures, public improvements, use criteria, non-conforming uses & structures, and variances.
5. **New Business**
No New Business



Planning Commission Meeting Minutes for –October 26, 2016

Chair Laumbattus called the Meeting of October 26, 2016 to order at approximately 6 p.m.

Roll Call

Members Present: Commissioners Laumbattus, Oppel, Moffitt, McNett, Mount, Cleland McGrath, and Doll.

Minutes

Meeting minutes of October 12 were approved as read.

Correspondence

New Planning Commissioner Andrea Doll was introduced.

New Business

Public Hearing – Shoreline Substantial Development Permit & Conditional Use Permit: Mousel Marina, Herald Mousel

Kevin Cricchio, Associate Planner, presented the project to permit the construction of a 22 foot by 30 foot, 2 story building. The first floor would contain a private restroom with showers, laundry, and storage, serving the bayside moorage. The second floor would consist of a one bedroom apartment, for use by the dock master. Close proximity to the shoreline and nonexempt work require an SSDP. The CUP is required due to the proposed residential unit within the CM Zoning District. Staff determined that all parking needs are met. Staff recommends the Planning Commission make a recommendation of approval to City Council.

Jim Schemmer, Schemmer Consulting Group, explained the proposal as providing needed amenities, with minimum disturbance to the neighborhood. There will be no traffic impact, and reduced impact on access roads.

Chair Laumbattus questioned the locations and use of the easement. Mr. Schemmer clarified that the easement is for both the tenants of the condominium and those utilizing the marina.

Commissioner Doll questioned whether it will be difficult to come in and out of the area during construction. Mr. Schemmer is not expecting this to be a problem, but one lane may be closed for a day while tying in to the sanitary manhole.

Commissioner Oppel requested clarification on parking reconfiguration in front of the building and where residential parking is proposed. Mr. Schemmer stated that there are no proposed changes in parking at this point and proposed parking is shown on the landscape plan.

Commissioner Cleland-McGrath requested clarification on the four large spaces within the parking. Mr. Schemmer stated that they are oversized parking spaces, leaving 38 regular parking spaces, which is more than required to meet the parking requirements. Chair Laumbattus questioned the possibility of wheel stops along the oversized spaces, reducing size of the spaces. Mr. Schemmer stated that the proposal at this point will not involve that.

Chair Laumbattus requested comments at this time.

Deborah Javelet, 2399 Skyline Way W, #203. Mrs. Javelet expressed discontent with the project, with a recap of her letter, which is on file. Mrs. Javelet also spoke of a meeting between her, Mr. Javelet, and Mr. Mousel, where it was determined that Mr. Mousel does not own slips. Mrs. Javelet is concerned with road maintenance responsibilities, and proposed that either the slip owners or Mr. Mousel repair the road and take over maintenance, instead of the condominium.

Pat Mousel. Mr. Mousel clarified that the oversized parking spaces are a new addition, and that the spaces previously had curb around them.

Michael Javelet, 2399 Skyline Way W, #203. Mr. Javelet expressed his opposition of the project in regards to the road maintenance and traffic impact, as recapped from his letter, on file.

Cheryl Claud, relative of applicant. Mrs. Claud stated that her understanding is that road maintenance is split 3 ways.

Tim Cutter, 2399 Skyline Way W, #102. Mr. Cutter stated that it has been a verbal agreement to split maintenance of the road, while suggesting formalizing that agreement at this time.

Mr. Schemmer clarified that there are easement documents which provide the skeleton for an agreement for the road maintenance. Mr. Measamer suggested that a draft proposal be prepared for the City Council meeting.

With no further comments, the public hearing closed.

Commissioner Moffitt disclosed that a member of the Mousel family works for her company, but that she will be impartial. There were no objections.

Commissioner Oppel requested clarification on CM zoning for a CUP to allow the residence. Mr. Measamer clarified that the zone requires a CUP for a residential building. The SSDP would usually be decided at Planning Commission, but the CUP requires the process be combined as a recommendation to City Council.

Chair Laumbattus stated that the required parking is a separate issue from the shared easement. Chair Laumbattus suggested that a lane remain open to improve circulation. Commissioner Cleland-McGrath suggested rearranging the parking stalls to allow another lane access. Mr. Measamer confirmed that the suggestion is possible. Mr. Measamer's suggested condition was "the current drive aisle adjacent to the oversized parking stalls shall be striped

and signed no parking, meeting Anacortes Fire Department access requirements, as condition 11.”

Commissioner Oppel made a motion to include the suggested verbiage from Mr. Measamer as condition 11. Commissioner McNett seconded. The motion passed unanimously.

Commissioner Oppel made a motion to recommend approval of the SSDP and the CUP to City Council with the conditions from staff and the added condition from Commissioners. Commissioner Mount seconded the motion. The motion passed unanimously.

Chair Laumbattus called the meeting to a close at approximately 7:40 p.m.



Planning Commission Meeting Minutes for – November 9, 2016

Chair Laumbattus called the Meeting of November 9, 2016 to order at approximately 6 p.m.

Roll Call

Members Present: Commissioners Laumbattus, Oppel, Moffitt, McNett, Mount, Cleland McGrath, and Doll.

Minutes

No minutes to approve.

Correspondence

None

Old Business

Public Discussion – Draft Unified Development Code, Title 19

Don Measamer, Director of Planning, Community, and Economic Development, presented changes in the draft and schedule for amendments. Mr. Measamer requested public comment.

Patrick O'Hearn, 11039 Post Drive. Mr. O'Hearn provided support and criticism for the updates. A copy of his written comments will be provided in the next commission packet.

Vernon Lauridsen, 2219 32nd Street. Mr. Lauridsen expressed concerns with the draft, including the difficulty of following changes and the reasoning of the changes.

Gene Derig, 1302 K Avenue. Mr. Derig expressed concern with clarifying changes.

Marilyn Derig, 1302 K Avenue. Ms. Derig expressed concern with transparency and public involvement.

Commissioner McNett requested clarification on boundary line adjustments. Mr. Measamer explained it as an administrative process of shifting underlying lot lines.

Commissioner Moffitt requested clarification on the timeline for addressing new code based on repealed code. Mr. Measamer explained that there will be more information provided and more discussion on this topic.

With no further comments, the hearing moved to new business

New Business

Public Hearing – CUP-2016-1001, 1812 Commercial Avenue, Veterinary Clinic

Kait Nelson, City Planner, presented the CUP to allow a veterinary clinic in the Commercial Zoning District. Ms. Nelson addressed applicant responses to public comment received prior to the hearing including parking, green space, overnight usage, noise concerns, and euthanasia and disposal.

Beth Scheenstra, veterinarian and business owner, stated her availability to answer questions.

Commissioner Doll inquired on daily visits expected. Dr. Scheenstra stated she will be the only doctor, typically taking in 8 to 15 patients, if only appointments, versus procedures which would bring in less. Commissioner Doll inquired on the number of staff. Dr. Scheenstra stated there may be 2 to 3 support staff. Commissioner Doll expressed concern with the amount of parking provided. Dr. Scheenstra stated staff are encouraged to find alternative transportation.

Vernon Lauridsen, 2219 32nd Street. Mr. Lauridsen expressed concerns with the applicant listed as the architect, missing responses to code requirements, and ensuring that there is enough known about the proposed business.

Ms. Nelson clarified Mr. Lauridsen's concerns. The listed applicant is a representative, which doesn't make them the sole contact with the PCED Department. Code requirements were included with the application, and while they were not provided as a separate document in the PC Packet until the hearing, they were stated in the staff report. Details involving the clinic itself are mostly addressed in state requirements.

Chair Laumbattus asked the Commissioners if there are any interests in this proposal. Commissioner McNett stated that he has worked with the owner of the building. Chair Laumbattus stated that his physical therapist is Laurie Sherman, who wrote in comments. There were no objections.

David Pure, tenant representative, addressed Mr. Lauridsen's concerns by stating that he and the architect are experienced with vet clinic proposals and take concerns very seriously.

Commissioner Laumbattus inquired on storing animals after euthanasia. Dr. Scheenstra clarified that services come once a week or bi-weekly, the clinic has a freezer following state regulations, and special circumstances would be the duty of staff to take care of.

With no further comments, Chair Laumbattus closed the public hearing.

Commissioner Moffitt questioned the use of the clinic pharmacy. Dr. Scheenstra stated that pharmacy is a loose term for storing non-controlled substances, and there are not many controlled substances used in small animal practices, which this would be.

Commissioner Doll questioned the use of the empty lot to the north of the property. Dr. Scheenstra clarified that that lot is owned by Banner Bank and she would not encourage owners take pets there. Dr. Scheenstra stated that there is a pad on the lot that would allow for a space for pets to relieve themselves. Chair Laumbattus asked Mr. Measamer if landscaping on the lot could be converted to allow for use by pets. Mr. Measamer stated that it would be possible.

Commissioner Cleland-McGrath made a motion to add a condition which requires a minimum of 40 sq. ft. area designated for pets to relieve themselves. Commissioner McNett seconded the motion. Commissioner Doll suggested requiring signage on the designated area as an amendment to the motion. Commission Cleland-McGrath accepted the amendment. The motion passed unanimously.

Commissioner Oppel requested confirmation that neighboring property owners were contacted about the application. Mr. Measamer clarified that as required, all property owners within 300 feet have been notified, with comments included in the packet.

Commissioner McNett made a motion to recommend approval of the conditional use permit with the subject conditions from staff and planning commission. Commissioner Cleland-McGrath seconded the motion. The motion passed unanimously.

Chair Laumbattus called the meeting to a close at approximately 7:10 p.m.



Planning Commission Agenda Bill

Meeting Date: 11/23/2016 **Agenda Item:** [Click here to enter text.](#)

Subject: Title 19 Land Use Procedures

Staff Contact: Don Measamer, Darcy Swetnam

Approved for Submittal to Council by	
	Laurie Gere, Mayor
x	Don Measamer, PCED Director
x	Darcy Swetnam, City Attorney

Action Type	
	Ordinance No.
	Code Revision?
	Resolution No.
	Contract
x	Public Hearing
	Staff Report
x	Discussion

Summary Statement: A public hearing has been advertised for this evening to take public comment regarding the proposed land use procedures in new Title 19 of the Anacortes Municipal Code. The proposed amendments are intended clarify and consolidate development regulations and land use permit procedures into one Title (Unified Development Code). Staff recommends that the Planning Commission take public comment tonight and then continue the public hearing to November 30, or other date determined at the meeting.

Background: The Planning Commission took public input and reviewed drafts of the proposed amendments at its meetings on October 12 and November 9. Since then, staff has continued to work on refining the content of the document based on Commission and public input. Revisions within the current draft include:

- Addition of Divisions and chapter re-organization
- Changes to address additional instances of procedural language within the AMC needing to be carried over to Title 19
- Refinements to the definitions, classification and process matrix, eligibility for permits, revisions to applications, notices of application, department review, reconsideration, appeals, revisions to permits, permit expirations, conditional use standards, variances, uses, and supplemental use criteria (including bed and breakfasts, home occupations and accessory dwelling units)

Previous Council/Committee Action: Planning Commission discussed the proposal at its October 12, and November 9, 2016 meetings.

Competing Viewpoints Considered: Public comment received to date has been incorporated into the draft where appropriate; a public hearing has been advertised for this evening.

Recommended Motion: None.

Alternative Actions: N/A

Attachments (listed in order presented):

Draft Title 19 V10, dated 11/16/16

Updated procedure comparison matrix

Public Comments received as of 11/16/16

Ordinance No. ____

**An Ordinance Amending Various Provisions of the Anacortes
Municipal Code and Adopting a New Title 19,
Unified Development Code**

Whereas the Anacortes Municipal Code currently includes development regulations in Titles 15, 16, 17, and 18;

Whereas the City Council desires to clarify and consolidate its development regulations in a single title to provide effective and efficient rules for the public and city staff;

Whereas, on _____, the City provided 60-day notice of intent to adopt these development regulations to the Department of Commerce;

Whereas, on _____, the Planning Commission held a public hearing on the proposal;

Whereas, on _____, the City Council deliberated on the proposal;

Now, therefore, the City Council of the City of Anacortes does ordain as follows:

- Section 1. The Anacortes Municipal Code is amended as shown in Attachment A.
- Section 2. Conditional use permit, special use permit, and land division applications submitted and deemed complete prior to the effective date of this ordinance are to be processed under the procedures in effect prior to these amendments.
- Section 3. This ordinance takes effect five days after publication or on January 1, 2017, whichever is later.

PASSED and APPROVED this ____ day of _____, 2016.

CITY OF ANACORTES:

Laurie Gere, Mayor

Attest:

Steve Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy Swetnam, City Attorney

Chapter 1.04 General Provisions

AMC Sections 1.04.070 is amended as follows:

1.04.070 Computation of time.

~~Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded.~~

- A. ~~Except when otherwise provided, in computing any time period prescribed or allowed by this code, the day of the act, event, or default from which the designated time period begins to run is excluded. The last day of the period is included unless it is a Saturday, a Sunday, or a legal holiday, in which case the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a legal holiday. When the time period prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays are excluded from the computation.~~
- B. ~~The legal holidays identified in RCW 1.16.050 are legal holidays for the purpose of this section.~~

Commented [RW1]: Updated to match Washington State Superior Court Civil Rule 6.

Chapter 2.42 Planning Commission

2.42.010 Created.

There is created a planning commission of the city per RCW Chapter 35.63.

Commented [RW2]: Multiple statutes allow for the creation of planning commissions, so it is important to identify which we are relying on.

2.42.020 Membership.

There will be seven members of the commission, to be appointed by the mayor, by and with the consent of the city council. Members must be selected without respect to political affiliations and serve without compensation.

~~2.42.030 Membership—City officer.~~

~~One of the members may be an officer of the city, and his membership shall correspond with his tenure of office.~~

2.42.040 Terms of office.

The terms of members ~~not city officers~~ will, after the expiration of the term of those first appointed, be for six years. The members first appointed will hold office as follows: two for two years; two for four years; and two for six years. Vacancies other than through expiration of terms must be filled for the unexpired terms. Members may be removed, after public hearing, by the mayor with the approval of the council for inefficiency, neglect of duty, or malfeasance in office.

2.42.050 Powers and duties.

The planning commission of the city will have all of the powers and perform each and all of the duties specified by ~~Chapter 44 of the Sessions Laws of 1935, together with any other duties or authority which may hereafter be conferred upon them by the laws of the state, the performance of such duties and the exercise of such authority to be subject to each and all the limitations expressed in such legislative enactment or enactments~~ AMC Title 19.

Commented [RW3]: References RCW 35.63.060, which is somewhat meaningless.

2.42.060 Organization.

The commission will elect its own chairman and create and fill such other offices as it may deem necessary, and will hold at least one regular meeting in each month for not less than nine months of the year. It will adopt rules for the transaction of its business and will keep a written record of all of its proceedings, which record will be a public record.

2.42.070 ~~Service without compensation~~—Quorum.

~~The members of the commission will act without compensation.~~ Four members present and voting constitute a quorum.

Commented [RW4]: Moved to 2.42.020.

15.20 Building Permits

AMC Chapter 15.20, Building Permits, is repealed.

15.32 Underground Utilities

AMC section 15.32.120, Variance procedure, is repealed.

16.04 General Provisions, Definitions, and Exemptions

AMC 16.04.104, Variances, exceptions and waiver of conditions, is repealed.

AMC 16.04.106, Complete application, is repealed.

16.10 Binding Site Plans

AMC 16.10.090, Approval Procedure, is repealed.

AMC 16.10.300, Appeals to the board of adjustment, is repealed.

16.12 Preliminary Plats for Standard Subdivision

16.12.020 Review Procedure, subsections A through D and subsections F through I are repealed, and the section is retitled "Approval Criteria."

16.16 Final Plats

16.16.030 Review Procedure is amended as follows:

16.16.030 ~~Review Procedure~~Approval Criteria

~~A.—When a final plat application meeting the requirements of this title has been submitted, the administrator shall transmit the original final plat application first to the planning commission and then to the city council for consideration within thirty days from the date of its submission unless the applicant consents to an extension of the time period for such review.~~

~~B.—A.~~ The planning commission and city council shall at their public meetings consider the final plat application. If the city council finds that the final plat meets the requirements as set out in the preliminary plat approval conditions, the final plat will be approved.

~~C. The city council shall act on the final plat within thirty days from submission of a complete application, unless the applicant consents to an extension of such time period.~~

16.24 Modifications and Exceptions

AMC 16.24.020 Procedure, is repealed.

16.28 Recreational Vehicle Parks

AMC 16.28.040, Grading and drainage, and AMC 16.28.100, Application procedure, is repealed. The remainder of this chapter is recodified as AMC 19.60.070, Recreational Vehicle Parks, with the modification below to AMC 16.28.090.

16.28.090 - ~~Commercial use~~Retail sales.

No retail sales uses ~~should be~~are allowed within the park ~~unless a specific site for such use, limited to park users, is approved by the city council.~~

16.40 Planned Unit Developments

AMC Chapter 16.40, Planned Unit Developments, is repealed.

17.04 General Provisions

AMC 17.04.010, Introduction, is repealed.

AMC 17.04.030, Enacting clause, is repealed.

AMC 17.04.070, Application submission and review procedures, is repealed.

AMC 17.04.080, Severability and savings provision, is repealed.

AMC 17.04.090, Consistency, is repealed.

Commented [RW5]: Subsection B is incorporated into Title 19. The rest of this section is surplusage.

Commented [RW6]: This section says not much, but then again restates Superior Court appeal provisions.

Commented [RW7]: This section either restates 36.708.030 or says nothing.

17.06 Definitions

AMC 17.06.395, Home occupation, is repealed.

AMC 17.06.400, Home occupation signs, is repealed.

17.08 Administration

AMC Chapter 17.08, Administration, is repealed.

Commented [RW8]: 17.08.100, garage sales, will be reconstituted somewhere else in a future code package.

17.10 Board of Adjustment, Planning Commission, and Conditional Uses

AMC Chapter 17.10 is retitled "Conditional Uses, ADUs, and Adult Concessions."

AMC 17.10.010-.060, regarding the Board of Adjustment, are repealed.

AMC 17.10.070-.090, regarding the Planning Commission, are repealed.

AMC 17.10.100-.130, regarding conditional uses, are repealed.

AMC 17.10.170, Accessory dwelling units, unnumbered paragraphs prior to subsection A are amended as follows:

Accessory dwelling units (ADU's) ~~may be approved by the zoning administrator are permitted uses~~ in R1, R2, R3, R4, R4A, and R4B zones ~~subject to the procedure set forth in [Section] 17.10.180.~~

In addition, the following standards and regulations will apply to all proposed accessory dwelling units:

AMC 17.10.180, Procedure for accessory dwelling unit permits, is repealed.

17.14 Amendments and Rezones

AMC Chapter 17.14, Amendments and Rezones, is repealed.

17.46.020 Parking

AMC 17.46.010.D is amended as follows:

~~In-For~~ uses not specifically mentioned herein, the decision maker must determine the off-street parking requirement ~~shall be fixed by the planning commission~~ based generally on the requirements for similar uses.

AMC 17.46.020 is amended as follows:

The minimum number of off-street parking shall be determined in accordance with the following table, ~~except where the minimum number of off-street parking spaces is varied by the planning commission (appealable to city council) with a documented finding that the overall parking situation in the project vicinity will not be adversely affected.~~ One bicycle rack space shall be provided for every five parking spaces.

[No changes to table or remainder of the section.]

17.60 Nonconforming Uses

AMC Chapter 17.60, Nonconforming Uses, is repealed.

17.62 Public Hearings

AMC Chapter 17.62, Public Hearings, is repealed.

17.70 Critical Area Regulations

AMC 17.70.050.D, is repealed.

17.75 Essential Public Facilities

AMC 17.75.04, Procedure, is repealed.

Commented [RW9]: Because other sections in this chapter restate the procedure, we can just delete this section.

AMC 17.75.060.B.2 is revised to read:

Type Two Facilities. Type Two essential public facilities shall be required to provide a notice of application ~~as required by AMC [Section] 17.04.070.~~

AMC 17.75.060.C.2 is repealed.

AMC 17.75.060.F.2 is revised to read:

The proposal complies with applicable requirements of ~~Chapter 17.10.100~~ AMC Chapter 19.36 Conditional Uses and all other applicable provisions of the City Code;

18.04 State Environmental Policy Act

Modify only the following section:

18.04.250 Appeals

~~D.B.~~ ~~The city elects not to have an agency administrative appeal.~~ Appeals of SEPA threshold determinations are processed per AMC Title 19.

~~E.C.~~ The city shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

18.16 Shoreline Master Plan

The following sections of AMC Chapter 18.16 are amended as follows:

18.16.050 - Table of permits and procedures.

Table 1 below classifies shoreline development permits by procedure type, decision maker, and type of public notice.

Table 1

Permit Application	Decision maker	Public Notice	Notes
Shoreline Substantial Development Permits	Planning Commission or City Council As provided in Section 18.16.100(B)(2)	a. Mailed to property owners w/in 300 ft. b. Posted on-site c. Published notice	See Section 18.16.040 for definition and approval criteria.
Conditional Use Permits	Planning Commission or City Council As provided in Section 18.16.100(B)(2)	a. Mailed to property owners w/in 300 ft. b. Posted on-site	See Section 9.1 of the Shoreline Master Program for definition and approval criteria. After local government approval, the permit is submitted to the Department of Ecology for the department's approval, approval with conditions, or denial WAC 173-27-110.

	Department of Ecology	c. Published notice	
Variances	Planning Commission or City Council As provided in Section 18.16.100(B)(2) Department of Ecology	a. Mailed to property owners w/in 300 ft. b. Posted on-site c. Published notice	See Section 9.2 of the Shoreline Master Program for definition and approval criteria. After local government approval, the permit is submitted to the Department of Ecology for the department's approval, approval with conditions, or denial WAC 173-27-110.

18.16.100 - Administrative authority and responsibility.

~~F.D.~~ Shoreline Administrator. The shoreline administrator is vested with the following authority and responsibility:

1. Overall administrative responsibility for this master program.
2. Authority to grant written permit exemptions from shoreline substantial development permit requirements of this master program.
3. Authority to approve or recommend ~~to the planning commission~~ approval, approval with conditions, or denial of applications for shoreline ~~substantial development~~ permits and permit revisions in accordance with the policies and regulations of this master program consistent with AMC Chapter 19.20 Application Procedures.
4. Advising interested citizens and project proponents of the goals, policies, regulations and procedures of this master program.
5. If a nonconforming use is discontinued for a period of twelve months in any consecutive two-year period, it shall lose its nonconforming status, and the continued use of the property shall be required to conform to the provisions of this master program and the Act.

~~G.E.~~ The decision maker per AMC 19.20.030 Types of Review is authorized to approve, approve with conditions, or deny shoreline permits consistent with the procedures in AMC Chapter 19.20 Application Procedures. ~~Planning Commission/City Council. The planning commission/city council is vested with the following authority:~~

1. ~~Authority to approve, approve with conditions, or deny shoreline substantial development permits, variance permits, and conditional use permits after considering the findings and recommendations of the shoreline administrator at an open record public hearing.~~

~~For each shoreline substantial development/conditional use/variance permit application an open record public hearing shall be held before the planning commission. For project improvements valued at less than one million dollars on project sites less than three acres in size, the planning commission may approve, approve with conditions, or deny the permit unless an appeal of the planning commission's action is filed. Any aggrieved party shall have five working days from the date of the action to appeal the action of the planning commission to the city council. The appeal shall be in writing and is to be filed with the city clerk. After considering the record and any appeal, the city council shall decide whether to grant, deny, or grant the permit with conditions, and shall issue a written decision. If an appeal is filed by an aggrieved party, this appeal shall be a closed record appeal to the city council who shall decide the~~

Commented [RW10]: The substance of this section is encapsulated in the new AMC Title 19 procedures section.

~~matter. For project improvements valued at one million dollars or more or for project sites three acres or more in size, the city council shall decide in a closed record appeal format upon recommendation of the planning commission. The planning commission shall record their recommendations, their reasons for recommendation, and any conditions recommended to be placed on the application. This record is to be sent to the city council.~~

New Title 19 Unified Development Code

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Division 1 General and Legislative Provisions

Chapter 19.10 General Provisions

19.10.010 Purpose.

The purpose of this Title is to implement the Comprehensive Plan and state laws related to land use and development in a manner that is clear, concise, and understandable. It is also intended to comply with state rules for combining and expediting development review and integrating environmental review and land use development plans.

19.10.020 Applicability

This Title is applicable to all land within the corporate limits of the City of Anacortes, and the City's urban growth area, except as pre-empted by law or interlocal agreement.

Commented [RW11]: e.g state and federal

Commented [RW12]: e.g. tribe

19.10.030 Administration

- A. The Director is responsible for administration of AMC Titles 16, 17, 18, and 19.
- B. Counter information. The Director may respond to inquiries regarding the applicability and interpretation of various code provisions prior to or outside the context of a specific development permit application. These general counter requests for information are for public convenience only and are not binding on the City nor appealable.

Commented [RW13]: Title 15 will no longer exist by the effective date of this Title.

19.10.040 Fees and costs.

- A. The City Council may, by resolution, adopt a schedule of fees for permit applications and appeals. Per RCW 82.02.060, impact fees must be adopted by ordinance.
- B. The cost of postings, mailings, and publications must be paid for by the applicant.

19.10.070 No special duty created.

- A. It is the purpose of this title to provide for the health, welfare, and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this title.
- B. Nothing contained in this title is intended to be nor may be construed to create or form the basis for any liability on the part of the city or its officers, agents, and employees for any injury or damage resulting from the failure of any premises to abate a nuisance or to comply with the provisions of this title or be a reason or a consequence of any inspection, notice or order, in connection with the implementation or enforcement of this title, or by reason or a consequence of any inspection, notice or order, in connection with the implementation or enforcement of this title, or by reason of any action of the city related in any manner to enforcement of this title by its officers, agents or employees.

19.10.080 Savings.

Nothing contained in this title may be construed as abating any action now pending under or by virtue of any ordinance of the city herein repealed, or as discontinuing, abating, modifying, or altering any penalty accrued or to accrue, or as affecting liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of passage of the ordinance codified in this title.

19.10.090 Severability.

If any provision of this title is declared unconstitutional or invalid by any court of competent jurisdiction, it must be conclusively presumed that this title would have been enacted without the provision so held unconstitutional or invalid, and the remainder of this title must not be affected as a result of any part being held unconstitutional or invalid.

Chapter 19.12 Definitions and Interpretation

19.12.020 Definitions.

The following definitions apply to this title; other definitions may be found in individual chapters:

“Accessory dwelling unit (ADU)” means a second dwelling unit, that has separate kitchen, sleeping, and bathroom facilities and is attached or detached from the primary residential unit on a lot.

“Appellant” _____

“Applicant” means a person seeking development or permit approval from the City.

“AMC” means the Anacortes Municipal Code.

“Boundary line adjustment” means the adjustment of a boundary line between existing lots.

“Burden of proof” means _____

“Comprehensive Plan” means the City’s Comprehensive Plan adopted pursuant to RCW Chapter 36.70A.

“Comprehensive Plan amendment” means an amendment or change to the text or maps of the Comprehensive Plan.

“Conditional use” or “CUP” means a use that may be restricted as a condition of approval.

“Day” means calendar day, not business day, unless otherwise specified. But see AMC 1.04.070, Computation of time.

“Decision” means the written report of findings and conclusions issued by the decision-maker.

“Decision-maker” means that officer or body prescribed by this Title as having the authority to approve, approve with conditions, or deny a project permit or hear an appeal and issue a revised decision.

“Density” means _____ [used in variance section]

“Department” means the City of Anacortes Department of Planning, Community, and Economic Development.

Commented [RW14]: This definitions section is still under construction. Many of these definitions have not yet been reviewed, nor verified that the terms are actually used in this Title.

“Development” means any land use, activity, or project regulated by AMC Titles 13, 16, 17, and 18, including but not limited to building permits, subdivisions, binding site plans, rezones, conditional use permits, shoreline permits, short plats, or variances.

“Development permit” means a permit or approval for a development.

“Director” means the Director of the Department or the Director’s designee.

“Effective date” means the date a final decision becomes effective.

“Essential Public Facility” or “EPF” means any public facility or facilities owned or operated by a unit of local or state government, public or private utility, transportation company, or any other entity that provides a public service as its primary mission, and is difficult to site. EPFs include those facilities listed in RCW 36.70A.200.

“Family” means:

- A. One person or two or more related persons living together.
- B. No more than five unrelated persons living together as a single nonprofit housekeeping unit.
- C. Unrelated persons living together in a state licensed adult family home pursuant to RCW 70.127.010, with the provider’s family counting as up to six persons not related to the providers living with them as one housekeeping unit for profit.
- D. In a single-family dwelling, one roomer or boarder is permitted in addition to the family.

“Final decision” means the final City action, in writing, to approve, approve with conditions, or deny a permit application.

“Garage sale” means all general sales, open to the public, conducted from or on a residential premises in any residential zone, for the purpose of disposing of personal property.

“Home Occupation” means any activity undertaken for financial gain or profit and carried on in a dwelling, or building accessory to a dwelling.

Commented [GL16]: New.

“Impact fee” means _____. Compare to “General Facilities Charge.”

“Lot” means _____

“Parcel” means _____

“Party of record” means a person who has testified at a public hearing, or submitted a written statement during the comment period, related to an application prior to the final decision on the application and who provides the City with a complete mailing address.

“Planned action” means a development proposal as defined in RCW 43.21C.440 as amended.

“Plat” means a scale drawing of a subdivision showing lots, blocks, streets, or tracts, or other division or dedications of land to be subdivided.

“Plat, final” means a precise scale drawing of a subdivision and dedications which conforms to the approved preliminary plat, meets all the conditions of approval, and meets the requirements of the Skagit County auditor for recording.

“Plat, final short” means a precise scale drawing of a short subdivision and dedications which conforms to the approved preliminary short plat, meets all conditions of approval, and meets the requirements of the Skagit County auditor for recording.

“Plat, preliminary” means a neat and approximate scale drawing of a proposed subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks, and other information needed to properly review the proposal.

“Plat, preliminary short” means a neat and approximate scale drawing of a proposed short subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks, encumbrances, encroachments, and other information needed to properly review the proposal.

“Plat, short” means the plat of a short subdivision.

Commented [RW17]: We could probably consolidate these definitions of the various types of plats.

“Public hearing” means an open record hearing at which evidence is presented and testimony is taken.

“Public meeting” means an informal informational public meeting, where the public is allowed to provide comment(s).

“Rezone” means an amendment which changes the use classifications and/or boundaries upon the official zoning map.

“Site plan” means a map or representation of a site showing thereon the location of various features of a particular proposal, such as setbacks, buildings, parking areas, and other items.

“Site plan, binding” means a site plan reviewed and approved pursuant to AMC Titles 16 and 17 and Chapter 16.10 AMC, containing the inscriptions or attachments setting forth the limitations and conditions of use for a specific parcel of property and meeting the requirements of the Skagit County auditor for recording.

“Standard of review” means _____

“Subdivision, short” means the division or redivision of land into nine or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Subdivision” means the division or redivision of land into ten or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Tract” means _____

“Variance” means an adjustment from a dimensional or numeric standard of Title 17 or 19 issued per AMC Chapter 19.38 Variances.

“Working day” means any day which the City is open for business.

19.12.040 Rules of interpretation.

- A. Within this title, all words used have their normal and customary meanings, unless specifically defined otherwise in this title.
 - 1. Words used in the present tense include the future.
 - 2. The plural includes the singular and vice versa.
- B. Except where otherwise expressly noted, the term “days” as used in this title means calendar days, not working days.

- C. Distances are measured horizontally unless otherwise specified.
- D. Interpretations of this code must be consistent with the Comprehensive Plan.
- E. Interpretations related to uses in each zone should be based on the “purpose” section of each zone.
- F. Where two applicable rules conflict, the most restrictive controls.

19.12.070 Supremacy.

In the event of a conflict between provisions of this title and AMC Title 13, 16, or 17, the provisions of this title control. In the event of a conflict between provisions of this title and AMC Chapter 18.16, Shoreline Master Plan, the provisions of AMC Chapter 18.16 control.

Chapter 19.14 International and Uniform Codes

Reserved.

Chapter 19.16 Legislative Actions

19.16.010 Purpose.

This Chapter establishes a program and process for early and continuous public participation for land use legislation consistent with RCW Chapter 36.70A, the Growth Management Act.

19.16.020 Applicability.

- A. This Chapter applies to adoption and amendment of any of the following legislative matters:
 - 1. the Comprehensive Plan;
 - 2. the Comprehensive Plan land use map;
 - 3. implementing development regulations.
- B. This Chapter does not apply to any of the following quasi-judicial matters:
 - 1. development permit applications;
 - 2. rezones permitted by an existing Comprehensive Plan designation that do not require a simultaneous amendment to the Comprehensive Plan.
- C. This Chapter does not apply to any of the following legislative matters:
 - 1. adoption and amendment of international and uniform codes such as the International Building Code, International Fire Code, or other codes required by the State of Washington;
 - 2. adoption of regulations governing impact fees, development agreements, and amendment of this Chapter;
 - 3. adoption of technical appendices to the Comprehensive Plan that do not contain Comprehensive Plan goals or policies, such as the six-year capital facilities financing plan.

19.16.030 General requirements.

- A. All amendments to the Comprehensive Plan policies, Comprehensive Plan land use map, or development regulations require:
 - 1. a public hearing;
 - 2. review and recommendation by the Planning Commission; and
 - 3. final approval by ordinance.
- B. For amendments to the Comprehensive Plan policies or land use map, the City must:
 - 1. docket amendments per AMC 19.08.050; and
 - 2. adopt all amendments simultaneously each year; and
 - 3. may not adopt amendments more frequently than once per year except for amendments that qualify for one of the exceptions in RCW 36.70A.130(2)(a).
- C. For amendments to the development regulations, the City may:
 - 1. accept petitions for development regulation amendments as part of the annual docketing process; or
 - 2. itself initiate the process of adopting or amending development regulations at any time.

19.16.040 Petitions.

- A. Types of petitions. A petition is one or more of the following types:
 - 1. an amendment to the Comprehensive Plan policies;
 - 2. an amendment to the Comprehensive Plan land use map (which requires a simultaneous rezone);
 - 3. an amendment to the development regulations.
- B. When to file.
 - 1. A petition must be submitted on or before the last business day of March, except that a City-initiated petition is not subject to this deadline.
 - 2. A petition for a rezone or map amendment may be considered only once between each Comprehensive Plan Periodic Update unless the applicant demonstrates a substantial change in circumstances. In no case may a petition for the same property be considered in consecutive years.
- C. How to file.
 - 1. A petition must be filed with the Department on forms provided by the Department.
 - 2. A petition must be filed with all fees required by the adopted fee schedule.
 - 3. A City-initiated petition does not require a written petition or fees.
- D. Contents of petition. A petition for amendment of the Comprehensive Plan or the development regulations must include the following:
 - 1. a detailed statement of what is proposed to be changed and why;

2. a statement of anticipated impacts to be caused by the change, including geographic area affected and issues presented;
 3. a demonstration of why the proposal is needed;
 4. a statement of how the amendment is consistent with the Comprehensive Plan's vision and goals.
- E. A petition for a rezone or amendment of the Comprehensive Plan map must also include a detailed description of how the map amendment complies with:
1. the land use designation criteria in the Comprehensive Plan; and
 2. approval criteria for map amendments and rezones in **AMC 19.08. ____**;

Commented [RW20]: Need criteria or reference elsewhere

19.16.050 Docketing.

- A. The Department must review all new petitions and any petitions deferred from the previous year's docket, and forward a recommendation to the City Council as to which petitions should be included in the next year's docket.
- B. In making its docket recommendation, the Department must consider whether:
 1. the petition complies with the filing requirements;
 2. the petition, in light of all proposed amendments being considered for inclusion in the year's docket, can be reasonably reviewed within the staffing and operational budget allocated to the Department by the City Council;
 3. the proposed amendment, to be adopted, would not require additional amendments to the Comprehensive Plan or development regulations not addressed in the application, and is consistent with other goals, objectives and policies adopted by the City Council;
 4. the proposed amendment raises policy, land use, or scheduling issues that would more appropriately be addressed as part of an ongoing or planned work program, or as part of the periodic review cycle;
 5. some legal or procedural flaw in the petition would prevent its legal implementation; or
 6. the petition lacks sufficient information or adequate detail to review and assess whether or not the proposal meets the applicable approval criteria. A determination that the proposal contains sufficient information and adequate detail for the purpose of docketing does not preclude the Department from requesting additional information at any later time.
- C. Following receipt of the Department's docket recommendation, the City Council must hold a public hearing to allow applicants and the public to comment on the Department's recommendation. The City Council must subsequently consider the Department's recommendation and the public comment and decide which petitions to include as part of the annual docket.
- D. The City Council must include, exclude, or defer each petition.
 1. Include. The City Council's decision to include a petition in the docket is procedural only and does not constitute a decision by the City Council as to whether the amendment will ultimately be approved.

2. Exclude. The City Council's decision to exclude a petition from the docket terminates the petition.
3. Defer. The City Council's decision to defer a petition means the City Council will consider the petition for docketing in the next annual amendment cycle.
- E. The petitions included in the docket must be processed according to the remaining sections of this Chapter, including public review and comment and Planning Commission recommendation, and final City Council action to approve, approve with modifications, defer to a subsequent amendment cycle, or deny each petition.

19.16.060 Environmental review of docket.

- A. After the Council establishes the year's docket of Comprehensive Plan amendments, the City must complete environmental review of all of the proposed amendments, consistent with the requirements of RCW Chapter 43.21C and AMC Chapter 18.04. For a site-specific Comprehensive Plan amendment, the applicant must submit a complete environmental checklist, required fees, and any other supporting information required by the Department.
- B. After receipt and review of the environmental checklist(s) for each of the docketed Comprehensive Plan amendments, the Department must issue threshold determination(s) on the docket of amendments.
- C. Any environmental review must consolidate, as much as practical, site-specific SEPA review with review of the entire docket of proposed Comprehensive Plan amendments to ensure adequate consideration of cumulative effects of the proposed amendments.
- D. A petition that is carried over from a previous year's docket to the next docket does not require a new SEPA checklist and fee, and is not required to be considered in the same environmental document as other proposals in the same docket. However, the Department may require additional SEPA analysis to assess the cumulative impacts of the various proposals constituting a docket.

19.16.070 Public notices.

- A. All public hearings and written comment periods that appear in this Chapter require public notice.
- B. Consistent with RCW 36.70A.035(1), "public notice" whenever it appears in this Chapter includes all of the following:
 1. publishing a native electronic copy of the document on the proposal's webpage on the Department's website;
 2. sending notice to the Department's e-mail list, including general lists or relevant lists for specific proposals or subject areas;
 3. publishing a paid notice in the City's official newspaper.
- C. For site-specific proposals (e.g. site-specific Comprehensive Plan map amendments), the initial "public notice" of a proposal also includes all of the following:
 1. posting notice on the property;

2. mailing notice directly to the owners of the subject property and to all property owners within 300 feet of the subject property.
- D. Notices must include all of the following:
1. a concise description of the proposal in plain English;
 2. information on how to provide comment on the proposal;
 3. deadlines for public comment;
 4. address of the project webpage.

19.16.080 Review by Planning Commission.

- A. Public Hearing.
1. After environmental review, the Planning Commission must hold at least one public hearing before issuing a recommendation on each proposal.
 2. If necessary due to the number of people present to comment, the Planning Commission may continue the public hearing to another date, time, or location.
- B. Deliberations.
1. Required consideration. The Planning Commission must consider the following in making its recommendation:
 - a. public hearing testimony and written comment received during any public comment period;
 - b. recommendations and analysis from relevant City advisory groups;
 - c. staff recommendations and analysis;
 - d. legal advice;
 - e. consistency of the proposal with the Comprehensive Plan;
 - f. for proposed Comprehensive Plan map changes, whether the proposal is justified by changed or changing conditions, whether the proposal would create an isolated land use designation unrelated to adjacent designations (a spot zone), and whether the proposal will be compatible with neighboring properties and not adversely affect the value of those properties.
 2. Ability to ask follow-up questions. The Planning Commission may ask specific follow-up questions of those that testify or submit written comments in order to clarify their testimony or request specific further information.
 3. Ability to continue deliberations. The Planning Commission may continue their deliberations to a subsequent meeting if it needs additional information or additional time to deliberate.
- C. Recommendation to City Council.
1. Timing. At the conclusion of its deliberations, the Planning Commission must vote on the proposal.

2. **Vote.** The Planning Commission may vote to recommend approval, approval with modifications, or rejection of the proposal. The Planning Commission may recommend general modifications to the proposal and need not provide explicit textual edits.
3. **Content.** The Planning Commission's recommendation on a proposal must be by recorded motion, which must contain the following components:
 - a. **Findings of fact:** a list of facts that the Planning Commission believes to be true and that are relevant to its recommendation on the proposal.
 - b. **Reasons for action:** an explanation of the Planning Commission's rationale in making its recommendation.
 - c. **Recommendation:** the recommendation resulting from the vote.
 - d. **Vote:** a record of the roll call vote on the entire recorded motion.
 - e. **Additional comments:** other relevant comments, suggestions, or recommendations, not strictly related to the recommendation, that the Planning Commission desires to include.
 - f. **Signature of the chair** attesting that the recorded motion reflects the Planning Commission's decision.

19.16.090 Review by City Council.

- A. Upon receipt of the Planning Commission's recommendation, the City Council must consider and take action on the recommendation.
- B. The City Council may take final action with no further process in any of the following situations:
 1. when the plan, plan amendment, or development regulation to be adopted by the City Council conforms substantially to the proposal as made available for public comment;
 2. pursuant to RCW 36.70A.035, when any of the following are true:
 - a. An environmental impact statement (EIS) has been prepared under RCW Chapter 43.21C for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;
 - b. The proposed change is within the scope of the alternatives available for public comment;
 - c. The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;
 - d. The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or
 - e. The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.
 3. when the action is to preserve the status quo and reject any and all changes in their entirety.

- C. Except as provided in subsection B, the City Council must allow additional public comment opportunity prior to final action. The City Council must choose one or more of the following options to provide such opportunity:
 - 1. an additional written public comment period;
 - 2. one or more public hearings before the City Council;
 - 3. remand of issue(s) to the Planning Commission for further recommendations after an additional written public comment period, or an additional public hearing, or both.
- D. If the City Council adopts a substantial change from the original proposal without remand, it must adopt its own findings of fact and reasons for action, setting forth the factors considered in the public comment or at the hearing and its own analysis of findings considered by it to be controlling.

19.16.100 Final Disposition of Annual Docket.

- A. The City Council must take action (approve, deny, or defer) on the current year's docket before establishing a subsequent docket.
- B. The City Council may defer action on any specific plan or plan amendment to a future docket if:
 - 1. Additional time is needed to analyze the impacts of the proposal;
 - 2. Retaining the proposal on the docket would unfairly delay action on other proposals that are otherwise ready for a decision;
 - 3. Approval of the proposal depends on the implementation of other rules, standards or policies that either do not exist or are not official by the time the City Council is ready to make its decision on the annual docket; or
 - 4. The City Council determines that the proposed plan or plan amendment is more appropriately considered during a subsequent amendment process.

19.16.110 Emergency or interim regulations.

The provisions of RCW 36.70A.390 for emergency or interim maps or regulations or moratoria, if applicable, supersede the requirements of this Chapter.

Division 2 Procedures

Chapter 19.20 Application Procedures

19.20.010 Policy

This Chapter establishes standard procedures for review of development permit applications and appeals. These procedures are designed to promote timely and informed public participation, eliminate redundancy in the process, minimize delay and expense, and result in approvals that further the goals and policies of the Comprehensive Plan. These procedures are intended to be consistent with the

provisions of RCW Chapter 36.70B and integrate the land use permit process with the environmental review process.

19.20.020 Applicability

- A. This Chapter applies to all applications and all development permits issued per AMC Titles 16, 17, and 19.
- B. Exemptions. Consistent with RCW 36.70B.140, the following permits are exempt from the procedural requirements of this chapter:
 - 1. sidewalk use permits;
 - 2. development agreements;
 - 3. final approval of short subdivisions and subdivisions.
 - 4. landmark designations and street vacations, and other approvals relating to the use of public areas or facilities; lot line or boundary adjustments, sign permits, restaurant sidewalk use permits, home occupation permits, short-plats, water and sewer hook-ups, land clearing permits, grading permits, and building and other construction permits, which are categorically exempt from environmental review under Chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits.

Commented [RW21]: RCW 36.70B.140 allows exemptions, but we may not find any others that should be included.

Commented [GL22]: Update this.

19.20.030 Types of Review

- A. Decisions on applications are governed by several types of review processes, described and distinguished in this section. The types of review are generally organized in ascending order of significance, amount of public process, and level of discretion exercised by the decision maker.
- B. The Director must determine the proper review type for all permit applications. If there is a question as to the appropriate type of process, the Director must resolve it in favor of the higher type number. A Type 3-PC review is considered a higher level than a Type 3-HE review.
- C. Table 19.20.030-1 identifies the types of review for all applications, and describes the process for each type of review.
 - 1. The types of applications that are subject to each type of review are listed in the column immediately beneath the heading for each type.
 - 2. The processes required for each type of review is further described by the remainder of the column beneath the heading for each type.
 - 3. The remainder of this Chapter describes the required processes for each type of review.

Table 19.20.030-1. Review Classification and Process Matrix

Types of Review	Type 1 Administrative Ministerial Actions	Type 2 Administrative Decisions	Type 3-HE Hearing Examiner Decisions	Type 3-PC Planning Commission Decisions	Type 4 City Council Decisions
Types of Applications	▪ Accessory dwelling units ▪ Boundary line adjustments ▪ Building, mechanical, and plumbing permits ▪ Clearing and grading permits ▪ Extension of time for approval ▪ Level 1 variances ▪ Shoreline exemptions ▪ Minor permit revisions ▪ Wireless collocation request	▪ Administrative conditional use permits, including home occupation permits ▪ Binding site plans ▪ Level 2 variances ▪ Preliminary short subdivisions ▪ SEPA threshold determinations ▪ Stormwater Management Manual adjustments and exceptions	▪ Special use permits for towers or antennas ▪ Level 3 variances	▪ Conditional use permits, except administrative CUPs ▪ Shoreline Substantial Development Permits (SSDP) for projects valued less than \$1 million on site less than 3 acres ▪ Shoreline Conditional Use and Variance Permits ▪ Special use and reasonable use permits per AMC Chapter 17.70 ▪ Any other applications identified as “conditional uses” in AMC Title 17	▪ Essential Public Facilities, type 1 and 2 ▪ Manufactured home subdivisions ▪ Preliminary long subdivisions ▪ Site-specific rezones authorized by the comprehensive plan ▪ Shoreline Substantial Development Permits (SSDP) for projects valued at \$1 million or more or on site of 3 acres or more
Pre-Application Conference	At discretion of Director	At discretion of Director	Yes	Yes	Yes
Pre-Application Neighborhood Meeting	No	No	Yes	Yes	Yes
Notice of Application	No	Yes	Yes	Yes	Yes
Comment Period	None	14 days	21 days	21 days (30 for SSDP)	21 days
Recommendation By	None	None	Director	Director	Planning Commission
Pre-Decision Open-Record Public Hearing	No	No	Yes, before Hearing Examiner	Yes, before Planning Commission	Yes, before Planning Commission
Decision By	Director	Director	Hearing Examiner	Planning Commission	City Council
Notice of Decision	No	Yes	Yes	Yes	Yes
Local Appeal To	Hearing Examiner	Hearing Examiner	City Council	City Council	None
Appeal Hearing Type	Open-record	Open-record	Closed-record	Closed-record	N/A

19.20.040 Consolidated review.

- A. Optional consolidated application processing. All projects that involve two or more application processes may, at the applicant's written request, be processed collectively under the highest numbered type procedure required for any part of the application or may be processed individually under each of the review procedures. If the application is processed under the individual procedures option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure.
- B. Integration of environmental review. An application for a development permit that is subject to the State Environmental Policy Act (SEPA) must be reviewed per AMC Chapter 18.04 concurrently with review of the development permit application except where exempted by that chapter.
- C. Per RCW 36.70B.050, review of an application is allowed only one open record hearing and one closed record appeal hearing.
- D. The appeal of a SEPA procedural determination is not subject to this section.

19.20.050 Eligibility for permits.

The Department may not issue any development permit for a lot created through a division or segregation that was illegal or contrary to city subdivisions laws or RCW Chapter 58.17.

19.20.070 Vesting.

- A. An application for a building permit or land division vests at the time a complete application is filed with the Department and all application fees are paid, consistent with RCW 19.27.095(1) and RCW 58.17.033(1).
 - 1. An application is complete on the date a complete application is filed, as subsequently determined in the letter of completeness.
 - 2. An application vested under this section is not subject to any laws or regulations that become effective after the date of vesting, except as provided below.
- B. If a vested application is approved, and that approval contemplates future uses or permits on the property that are subject to that approval, then:
 - 1. If the approval contains a detailed description of the uses, including a detailed site plan drawn to scale, specifying the location of all buildings and improvements to be constructed in conjunction with the use(s), and such site plan is consistent with all laws and regulations in effect at the time the original application vested, then all permit applications in connection with the future use(s) are vested to the laws and regulations in effect at the time of the vesting of the original permit application, and laws and regulations enacted after that vesting date will not apply to the future use(s) or any permit applications filed in connection therewith;
 - 2. If the approval does not describe in detail all future uses or does not contain a detailed site plan, drawn to scale, specifying the location of all buildings and improvements to be constructed in conjunction with the future use(s), then the future use(s) will be subject to all later enacted laws and regulations in effect at the time of the vesting of any required application for permits in connection with the future use(s).

- C. This section may not be construed to restrict the City from imposing conditions on development permits pursuant to the State Environmental Policy Act, RCW Chapter 43.21C, WAC Chapter 197-11, as long as such conditions do not change any of the requirements of the underlying code section pertinent to the particular development permit.
- D. This section may not be construed to prevent the City from imposing new regulations necessary to protect the public health and safety, including, but not limited to, the requirements of the building, health, and fire codes, as now adopted or as subsequently amended.

19.20.090 Requirements for public notices.

- A. Applicability. This section applies whenever one of the following is required by this Chapter:
 - 1. Notice of Application;
 - 2. Notice of Public Hearing;
 - 3. Notice of Decision, including any revised Notice of Decision.
- B. Distribution. The Department must timely distribute the notice by:
 - 1. Publication in the City's official newspaper.
 - 2. Electronic mail or first class mail to:
 - a. The applicant;
 - b. Any appellant;
 - c. Any parties of record;
 - d. Any person who, prior to rendering the decision, has requested a copy of the Notice of Decision;
 - e. Any agencies with jurisdiction over the application or any agencies that commented on the application;
 - f. Washington State Department of Transportation if the project is located adjacent to the right-of-way of a state highway;
 - g. Skagit County if the project is located adjacent to a city boundary.
 - 3. For a Notice of Application, via first class mail to owners of property within 300 feet of the subject property.
 - 4. Posting on at least two notice boards on or near the subject property, and on the notice board at City Hall and public library. The Director may establish standards for size, color, layout, design, wording, and placement of the signs and notice boards.
- C. Errors in precise compliance with the rules contained in this section do not require repeating the public notice if the notice was reasonable and adequate.

19.20.110 Pre-application conference.

- A. Purpose. The pre-application conference is intended to:
 - 1. provide the City and other agency staff with information about the proposed development;

2. enable staff to advise the applicant of applicable approvals and requirements;
 3. acquaint the applicant with the applicable requirements of the AMC and other laws; and
 4. identify issues and concerns in advance of a formal application.
- B. When required.
1. Generally. A pre-application conference is required when shown in AMC 19.20.030 Types of Review.
 2. Exception. The Director may waive the pre-application conference if the proposal has few development-related issues, involves subsequent phases of an approved development, or is substantially similar to a prior proposal affecting substantially the same property.
- C. To schedule a pre-application conference, the applicant must submit a request on forms provided by the Department and pay any applicable fees.
- D. The advice the City provides at pre-application meetings is not binding upon the City and does not prevent the City from enforcing all applicable regulations.

19.20.120 Pre-application neighborhood meeting.

- A. Purpose. The purpose of the neighborhood meeting is to:
1. Inform citizens about the potential project at an early stage; and
 2. Foster communication between the applicant and the public regarding potential issues and opportunities for solutions related to the project.
- B. When required.
1. A pre-application neighborhood meeting is required when shown in AMC 19.20.030 Types of Review.
 2. The applicant must hold a neighborhood meeting before submitting an application and after any required pre-application conference.
 3. The Director may require the applicant to hold another neighborhood meeting if the applicant's plans change significantly from those described at the neighborhood meeting.
- C. Meeting.
1. The meeting must be held in a public meeting place, such as the Public Library meeting room, Depot Arts Center, or City Hall.
 2. The meeting must be facilitated by a third-party facilitator approved by the Director.
 3. The meeting must be held Tuesday, Wednesday, or Thursday at 6 or 7 p.m. and may not overlap with any other City meeting or City holidays.
- D. Notices.
1. The Director may provide standard notice formats and guidelines for conducting the meeting.
 2. The notice must include:
 - a. a brief description of the project;

- b. date, time, and location of the neighborhood meeting;
 - c. name and phone number of the applicant or their representative.
- 3. The notice must be mailed at least 10 days prior to the meeting to all of the following:
 - a. The Department;
 - b. The list of property owners that must receive the notice of application.
- 4. The notice must be published in the local newspaper at least 10 days prior to the meeting.
- 5. The applicant must also post the notice on the project site at least 10 days prior to the meeting.
- E. The applicant is responsible for all fees and costs associated with the pre-application neighborhood meeting.

19.20.130 Application—contents and completeness

- A. Contents of applications.
 - 1. An application must:
 - a. be submitted on forms provided by the Department;
 - b. be signed by the owners of the property subject to the application, or include the owner's notarized authorization for the applicant to submit the application;
 - c. include fees, as calculated by the Director following the adopted fee schedule.
 - d. include all the information specified in any applicable code section as well as the application checklist provided by the Department.
 - 2. The applicant must apply for all permits identified in the pre-application meeting and required by law.
- B. Complete applications.
 - 1. A permit application is complete for the purposes of this section when it meets the requirements of section A.
 - 2. When the Director makes a determination on completeness of an application, the Director must provide to the applicant either:
 - a. a written determination that the application is complete; or
 - b. a written determination that the application is incomplete, a request for information necessary to make the application complete, and a notice that the requested information must be submitted within 90 days.
 - 3. A determination of completeness is not required if the Director issues the permit prior to the deadlines in subsection C, Timing.
 - 4. A determination of completeness does not preclude the Director from requesting additional information or studies either at the time of the determination of completeness or later, if the information is required to complete review of the application or substantial changes in the permit application are proposed.

C. Timing.

1. Initial receipt of application. Upon initial receipt of an application, the Director must provide the applicant a determination of completeness within 28 days. If the Director does not provide a written determination within 28 days, the application is deemed complete at the end of the 28th day.
2. Receipt of additional information. When the applicant submits the requested information, the Director must evaluate the application for completeness within 14 days. If the Director does not provide a written determination within 14 days, the application is deemed complete at the end of the 14th day.
3. Incomplete applications.
 - a. The applicant may submit a written request for extension of the deadline to submit the requested information for an additional 90 days. The Director may grant up to two such extensions.
 - b. If the applicant has not provided the requested information by the deadline, the Director must reject and return the application along with any unspent application fees.
4. Revisions to applications.
 - a. The applicant may make minor revisions to the application after the determination of completeness and before approval.
 - b. A “minor revision” to an application is one that does not:
 1. Involve more than 10% increase in area or intensity of the use;
 2. Increase the number of lots, dwelling units, or density;
 3. Decrease the quality or amount of open space;
 4. Result in any significant environmental impact not adequately reviewed or mitigated by previous documents;
 5. Expand onto property not included in the original proposal.
 - c. Any revision other than a minor revision requires a new application.

19.20.140 Application—notice.

- A. When required. A Notice of Application is required when shown in AMC 19.20.030 Types of Review.
- B. Contents. The Notice of Application must include:
 1. the application number;
 2. the name of the applicant;
 3. the date of application, the date of the notice of completion for the application, and the date of the notice of application;
 4. identification of the location of the project, by address if available;

5. a description of the proposed application, a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070;
6. the identification of other permits not included in the application, to the extent known by the City;
7. 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;
8. a statement of the public comment period, which lasts the number of days specified for the application type in AMC 19.20.030 Types of Review; except all shoreline permits subject to the comment period as outlined in WAC 173-27-110(2)(e), which allows for a 30-day comment period.
9. a statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;
10. the date, time, place and type of hearing, if applicable and scheduled at the date of notice of the application;
11. 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 and consistency;
12. if the City is using the optional DNS process (WAC 197-11-355), additional information will be added to the notice as required by WAC 197-11-355(2);
13. any other information determined appropriate by the City, such as the City's likely threshold determination, if complete at the time of issuance of the notice of application.

C. Timing.

1. The Department must distribute a Notice of Application within 14 days of determination that an application is complete, except for all shoreline permits subject to WAC 173-27-110(3), which requires notice of application to be given at least 15 days prior to the open record hearing.
2. Within seven days after the end of the public comment period, the Department must transmit the applicant a copy of public comments timely received in response to the Notice of Application together with a statement that the applicant may submit a written response to these comments within seven days from the date the comments are transmitted.

19.20.150 Application—department review.

- A. The Department has a duty to review each application for compliance with applicable city codes and to deny, or recommend denial of, an application that cannot comply with applicable city codes.
- B. If the Department is required to provide a recommendation to the decision maker on an application, the Department's recommendation must include all of the following:
 1. the date of determination of completeness;
 2. identification of city codes relevant to evaluation of the application;

3. a statement of facts necessary for the decision maker to evaluate the application's compliance with applicable city codes;
 4. the Department's evaluation of whether the application complies with applicable city codes;
 5. a description of the public process the application is subject to;
 6. a description of any environmental review related to the application;
 7. draft findings of fact for the decision maker.
- C. Requirement to consider comments.
1. In making its recommendation or decision, the Department must consider written comments, and applicant's responses, that are timely received.
 2. Except for a determination of significance, the City and the Department may not issue its SEPA threshold determination or issue a decision or recommendation on the application until the expiration of the public comment period on the notice of application.

19.20.160 Public hearings and meetings

- A. All hearings and meetings conducted as part of processing a permit application must be conducted consistent with this section.

Table 19.10.160-1. Types of hearings and meetings

	Open-record Pre-decision	Closed-record Decision	Open-record Appeal	Closed-record Appeal
Participation	Any interested party	Applicant and any party of record	The applicant, any appellant, and any party of record	The applicant, any appellant
Facts allowed outside the record	Yes	No	Yes	No
Standard of review	Compliance with Title 16, 17, 18, 19	De novo	Clearly erroneous	Clearly erroneous
Burden of proof	Applicant	Applicant	Appellant	Appellant

- B. Swearing-in required. In open-record hearings, a party who desires to submit evidence, including city staff, may only do so under penalty of perjury.
- C. Continuances. If, for any reason, a meeting or hearing on a pending action cannot be completed on the date set in the public notice, the meeting or hearing may be continued to a specified date and no further notice under this section is required.

19.20.170 Public hearing—notice.

- A. When required. A notice of public hearing is required for any public hearing held on a permit application pursuant to this chapter.
- B. Contents. The public notice must include:
1. The application number;

2. Project summary/description of each project permit application;
3. The designation of the hearing body;
4. The date, time, and place of the hearing and a statement that the hearing will be conducted in accordance with the rules of procedure adopted by the hearing body;
5. General project location, vicinity, address, and parcel number(s), if applicable;
6. The name of the applicant or applicant's authorized representative and the name, address and telephone number of a contact person for the applicant, if any;
7. The SEPA threshold determination, or description thereof, will be contained in the notice, along with any appropriate statement regarding any shared or divided lead agency status and phased review and stating the end of any final comment period;
8. A statement regarding the appeal process; and
9. The date when the staff report will be available and the place and times where it can be reviewed.

C. Timing.

1. The Department must distribute, including by publishing in the City's official newspaper, a notice of public hearing at least 15 days prior to the date of public hearing.

Commented [RW23]: Consistent with WAC 173-27-110(3) for shoreline permits.

19.20.180 Decision—timing.

A. Time limits.

1. The final decision on an application for a development permit must be made within the time limits from determination of completeness listed in Table 19.10.200-1.

Table 19.10.200-1.

Type of Application	Time Limit
Preliminary subdivisions and binding site plans (RCW 58.17.140)	90 days
Final subdivisions (RCW 58.17.140)	30 days
All other development permits (RCW 36.70B.080)	120 days

2. The following time periods are excluded from the calculation of the time limits:
 - a. Any time required to correct plans, perform studies, or provide additional information.
 - b. Any time during which substantial project revisions are made or requested by an applicant, in which case the 120 days will be calculated from the time that the City determines the revised application to be complete.
 - c. Any time required for the preparation and review of an environmental impact statement.
 - d. Any time required to complete the process for the siting of an essential public facility.
 - e. Any time required to obtain any necessary variance.
 - f. Any time required for any administrative appeals.

- g. Any time required for any administrative appeal of SEPA threshold determination, if applicable.
 - h. Any time required for any remand to the hearing body.
 - i. Any extension of time mutually agreed upon by the City and the applicant.
 - j. Any specific amount of additional time that the City determines is necessary for the processing of a specific complete project permit application.
3. Extension of Time. If the City is unable to issue its final decision on an application within the time limits provided for in this section, it must provide written notice to the applicant. The notice must include a statement of the reasons why the time limits cannot be met and an estimated date for issuance of the Notice of Decision.
- B. Effective Date. The decision is effective on the date stated in the decision, resolution, or ordinance. The date from which appeal periods may be calculated is the date of issuance of the decision.

19.20.190 Decision—notice.

- A. When required. When a final decision is made that requires a Notice of Decision per AMC 19.20.030 Types of Review or a decision is made on appeal, the Department must issue a Notice of Decision.
- B. Contents. The Notice of Decision must include:
 - 1. the application number;
 - 2. the name of the applicant;
 - 3. the name of the project;
 - 4. the street address of the project site;
 - 5. a description of the application;
 - 6. the date of final decision on the application;
 - 7. the date the Notice of Decision was issued;
 - 8. the decision on the application;
 - 9. any threshold determination made pursuant to RCW Chapter 43.21C;
 - 10. the procedure for appeal and the deadline for filing an appeal.
- C. Timing. If required, appeal periods do not begin to run until the Department publishes the Notice of Decision.

19.20.210 Appeals.

- A. Standing. The following parties have standing to appeal final decisions:
 - 1. The Director;
 - 2. The applicant;
 - 3. Any owner of the property subject to the application;

4. Any party of record when all of the following conditions are present:
 - a. The land use decision has prejudiced or is likely to prejudice that person;
 - b. That person's asserted interests are among those that the City was required to consider when it made the land use decision; and
 - c. A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision.
- B. Necessary parties. The following are parties to any appeal:
 1. The Director;
 2. The applicant;
 3. Any owner of the property subject to the application.
- C. Permissive joinder. The hearing body may add a party with standing to the appeal, after the appeal deadline has passed, upon the request of the party.
- D. Time to file. An appeal is timely only if it is:
 1. Filed with the director within 14 calendar days after written notice of the decision is mailed; and
 2. Accompanied by the appropriate appeal fee.
- E. Method of service. Appeals must be delivered to the City Clerk by mail or personal delivery before 5:00 p.m. on the last business day of the appeal period. Appeals received by mail after 5:00 p.m. on the last day of the appeal period will not be accepted, regardless when such appeals were mailed or postmarked.
- F. Contents. Appeals must be submitted on forms provided by the Department and contain the following:
 1. appellant's name, address, and phone number;
 2. a description of the appellant's standing to appeal;
 3. identification of the application or decision that is the subject of the appeal;
 4. appellant's statement of grounds for appeal and the facts upon which the appeal is based, with specific references to the facts in the record;
 5. the specific relief sought;
 6. a statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature or the signature of the appellant's agent, provided such agent's authorization is in writing and accompanies the appeal.
- G. Automatic stay. Except for administrative appeals of SEPA threshold determinations, the timely filing of an appeal will stay the decision until such time as the appeal is concluded or withdrawn.
- H. Procedures. The appeal body may provide in its procedures for a decision on the appeal after a hearing where the parties present argument, or new evidence when allowed by this Chapter; or after the parties submit written arguments.

Commented [GL24]: Or published, if applicable (per 19.10.190(C))

- I. Decision on appeal. The appeal body must issue a written decision on the appeal supported by written findings and conclusions, and the Department must distribute a revised Notice of Decision incorporating the decision on appeal.

19.20.220 Remand.

- A. In the event that the appellate body determines that the public hearing record is insufficient or otherwise flawed, the appellate body may remand the matter back to the original decision-maker to correct the deficiencies.
 - 1. The appellate body must specify the items or issues to be considered and the time frame for the additional work.
 - 2. The original public hearing may be re-opened if necessary for the limited purpose of addressing specific questions articulated by the appellate body.
 - 3. Only the parties of record to the open-record hearing, or in the case of an appeal, the parties to the appeal, may participate in the remand.
- B. The original decision-maker must affirm, modify, or reverse its original action based on the revised public record.

19.20.230 Reconsideration.

- A. A party to the underlying decision may seek reconsideration only of a final decision by filing a written request alleging specific errors on a form provided by the Department within 10 days of the date of decision.
- B. The decision-maker must consider the request without public comment or argument by the party filing the request. Reconsideration may be granted only when a material legal error has occurred or a material factual issue has been overlooked that would change the previous decision.
 - 1. If the request is denied, the previous action will become final.
 - 2. If the request is granted, the decision-maker may revise and reissue its decision or may call for argument in accordance with the procedures for closed-record appeals. If the decision is revised and the decision requires a Notice of Decision, the Department must distribute the revised notice.

19.20.240 Exhaustion of administrative remedies.

- A. No further administrative appeals are available when the final appeal shown in AMC 19.20.030 Types of Review has been heard.
- B. A request for reconsideration is not required to exhaust administrative remedies.

Chapter 19.22 Concurrency

Reserved.

Chapter 19.24 Public Improvements

19.24.100 Public Improvements—Design Standards.

- A. Public improvements, private roads, private sewer connections, and private stormwater facilities must be constructed consistent with the most recent version of the Development and Engineering Standards promulgated by the City's Public Works Director.
- B. All public improvements must be extended as necessary to provide a smooth transition to existing improvements both laterally across the street and longitudinally up and down the street for drainage and vehicular and pedestrian traffic.

Commented [RW25]:
AMC 15.20.030.

19.24.120 Public Improvements—Requirement.

Commented [RW26]: From AMC Chapter 15.20.

- A. Applicability. This section applies to a building permit for construction of any new building or structure; or for the addition to or repair of an existing structure, the cost of which within a 12-month period exceeds 50% of the existing structure's current assessed value.
- B. A building permit must be conditioned to require public improvements as described below:
 - 1. Where the street, road, or alley providing access to a building site is developed in accordance with City's Development and Engineering Standards but only on the side of the street not abutting the building site, the public street for the undeveloped portion of the street immediately adjacent to the building site must be developed to match the improvements on the portion of the street which is developed.
 - 2. Where the building site abuts an existing arterial street as defined by the city functional classification system map, the public streets, alleys, and the storm sewer system abutting the property must be improved in accordance with City's Development and Engineering Standards.
- C. For a building permit to construct a single-family or duplex residential structure, the Director of Public Works may waive all or a portion of the construction of improvements required in this chapter if the applicant records a covenant not to oppose establishment of a local improvement district to construct such improvements required. The covenant must be on forms approved by the city attorney, executed by all persons having an interest in the property for which application for a building permit is being made, and run with the land and be binding on future owners of such land.
- D. No driveway access is permitted onto Anaco Beach Road where the driveway access can be constructed on property owned by the applicant to a local access street.

Chapter 19.28 Permit Revision and Expiration

19.28.310 Permit Revision.

- A. A major revision to an approved permit requires a new application. A minor revision to an approved permit may be approved by the Director.
- B. A major revision is any revision other than a minor revision, or revisions that cumulatively do not qualify as a minor revision.

C. A minor revision is a revision that does not:

1. Increase the area of the use by more than 10%;
2. Increase the intensity of the use in a way that significantly affects the surrounding area in terms of traffic, noise, hours of operation, parking, or other impacts;
3. Increase the number of lots, dwelling units, or density;
4. Decrease the quality or amount of open space;
5. Result in any significant environmental impact not adequately reviewed or mitigated by previous documents;
6. Expand onto property not included in the original proposal.

19.28.330 Permit Expiration.

A. Expiration Schedule. Permits and approvals have the following initial terms until expiration, and may be extended the number of times indicated for the length of extension indicated.

Type of Permit or Approval	Initial Term	Number of Allowed Extensions	Length of Each Extension
Clearing, grading, grubbing	1 year	1	6 months
Conditional Use Permit	5 years to establish use	1	1 year
Preliminary Plats, Short Plats, Binding Site Plans	Time to submit final plat is as set forth in RCW 58.17.140.	0	n/a
Shoreline Exemption	1 year per SMP	0	n/a
Shoreline Permits	2 years to commence construction; 5 years maximum. See WAC 173-27-090(4)	1	1 year
Reasonable Use Exception	5 years to establish use	1	1 year
Special Use Permits	See applicable code section		
Variance	5 years to establish use	1	1 year
Wetland Delineation Verifications	5 years from city approval	0	n/a

Commented [RW27]: These terms should have notes like "1 year to complete work" or "5 years to establish use"

B. Shortening Permit Term. The City may, when issuing a decision, require a shorter expiration period than that indicated in subsection A when the nature of the specific development is such that the normal expiration period is unreasonable or would adversely affect the health, safety, or general welfare of people working or residing in the area of the proposal. The decision-maker may adopt appropriate time limits as a part of action on shoreline permits, in accordance with WAC 173-27-090.

- C. Commencement of Permit Term. The term for a permit will commence on the date of the final decision; except that in the event the decision is appealed, the effective date will be the date of decision on appeal. The term for a shoreline permit will commence on the effective date of the permit as defined in WAC 173-27-090.
- D. When Permit Expires.
 - 1. A permit issued under this title will expire if, on the date the permit expires, the project sponsor has not performed the work or fulfilled the requirements of the applicable permit.
 - 2. Exception. The initial permit term does not include the time during which a permit was not actually pursued by construction because of pending litigation related to the permit or because the applicant was diligently pursuing permits from other agencies necessary for construction.
- E. Extension of Land Use Applications. An extension may be granted by the Administrator for one year if the applicant has attempted in good faith to complete the proposed development activity necessary to meet the conditions of approval.
- F. Extension of Shoreline Permits. In accordance with Section 18.16.130.

Division 3 Permits

Chapter 19.32 Land Divisions

Reserved.

Chapter 19.34 Boundary Line Adjustments

Reserved.

Chapter 19.36 Conditional Uses

19.36.010 Purpose.

Some uses in some zones are permitted subject to a conditional use permit because of their unusual characteristics, or special characteristics of the area in which they are to be located, so that they may be properly located with respect to the objectives of this title and their effect on surrounding properties.

19.36.020 Applicability.

The provisions of this chapter apply to all conditional uses.

19.36.030 Application requirements.

A conditional use requires a permit. An application must be submitted on forms provided by the Department, and must demonstrate compliance with the conditional use criteria described in this chapter.

19.36.040 Criteria.

- A. In order to grant a conditional use permit, the decision maker must find that the use would be consistent with the following criteria:
 - 1. the use would comply with any specific requirements for the conditional use specified elsewhere in this code;
 - 2. access to the site is appropriate considering the anticipated volume of traffic resulting from the use;
 - 3. off-street parking and loading facilities are adequate in terms of location, amount, and design to service the use;
 - 4. the amount and location of open space and the provision of screening is such that buffering of incompatible uses is achieved;
 - 5. the location and intensity of outdoor lighting is such that it does not cast light on adjacent, adjoining, or neighboring properties;
 - 6. hours and manner of operation of the proposed use, including anticipated noise generation, are not inconsistent with the adjacent or nearby uses;
 - 7. public facilities and utilities are capable of adequately serving the proposed use;
 - 8. the physical conditions of the site, including size, shape, topography, and drainage, are suitable for the proposed development;
 - 9. any other factors deemed relevant to the decision maker.

19.36.050 Conditions authorized.

- A. In permitting a conditional use, the decision maker may impose, in addition to regulations and standards expressly specified in this code, other conditions necessary to ensure compatibility with the conditional use criteria. These conditions may include, but are not limited to:
 - 1. Requirements increasing the required lot size or yard dimensions;
 - 2. Increasing street widths, controlling the location and number of vehicular access points to the property;
 - 3. Increasing the number of off-street parking or loading spaces required;
 - 4. Limiting the coverage or height of buildings or structures or requiring screening and landscaping where necessary to reduce noise and glare and maintain the property in a character keeping with the surrounding area; and
 - 5. Requirements under which any future enlargement or alteration of the use shall be reviewed by the city and new conditions imposed.

Chapter 19.38 Variances

19.38.010 Purpose.

The purpose of this chapter is to establish the criteria for a variance.

19.38.020 Applicability.

- A. Generally, variances are allowed to grant relief from dimensional or numeric standards, including:
 - 1. building size or height;
 - 2. landscaping;
 - 3. lot coverage;
 - 4. minimum density or maximum lot size;
 - 5. parking;
 - 6. setbacks.
- B. Variances are not allowed for any of the following:
 - 1. allowable, conditionally permitted, or prohibited uses in each zone;
 - 2. maximum density or minimum lot size;
 - 3. procedural or administrative provision of this Title;
 - 4. any provision of this code which, by the express terms of that provision, is not subject to a variance;
 - 5. any conditions of approval established during permit review;
 - 6. the provisions of AMC Chapter 17.70 Critical Areas.

19.38.030 Variance levels.

- A. Variances are categorized into three levels, as specified below or elsewhere in this Title.
 - 1. A Level 1 variance is any variance up to 25% of the numerical standard in question.
 - 2. A Level 2 variance is any variance from 25-50% of the numerical standard in question.
 - 3. A Level 3 variance is any variance from more than 50% of the numerical standard in question.
- B. A request for a variance must be reviewed as the highest level for which it qualifies.

19.38.040 Criteria.

- A. The City may approve or approve with modifications an application for a variance from the provisions of this code only if by preponderance of evidence, the applicant demonstrates that all of the following criteria are met:
 - 1. The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone of the site;
 - 2. The variance is necessary because of the unique size, shape, topography, or location of the site;
 - 3. The site is deprived, by the provisions of this code, of rights and privileges enjoyed by other properties in the vicinity and same zone as the site;

4. The variance is the minimum necessary to provide the site with those rights and privileges;
 5. The need for the variance is not the result of deliberate actions of the applicant or property owner;
 6. Granting of the variance will not be materially injurious to the property or improvements in the vicinity and zone in which the site is located;
 7. The variance is not inconsistent with the intent and purpose of the provision being varied.
- B. Conditions for granting. In authorizing the variance, the decision maker may attach any conditions that it deems to be necessary or desirable in order to carry out the intent and purposes of this chapter and in the public interest.
- C. Approval. If the variance application is approved, the applicant must record the variance against the property with the County Auditor on a form provided by the Department and provide the Department a copy of the recording.
- D. Transfer of ownership. A variance runs with the land. Compliance with the conditions of a variance is the responsibility of the current owner of the property, whether the applicant or a successor.

Division 4 Zoning & Land Uses

Chapter 19.40 Zoning

Reserved.

Chapter 19.42 Uses

19.42.010 Generally.

- A. Land uses within the City of Anacortes are allowed when identified in AMC Chapter 19.40 Zoning or AMC Title 17.
1. "Permitted" uses are those that do not require discretionary land use approval permits, but may require building permits or other permits required by AMC Chapter 19.14 International and Uniform Codes.
 2. "Administrative Conditional Uses" are uses that require approval by the Director following the process in AMC 19.20.030 Types of Review.
 3. "Conditional Uses" are uses that require a higher level of review following the process in AMC 19.20.030 Types of Review.
- B. If a proposed use is not listed, but is clearly similar to uses listed in the zone in which it is to be located, the decision-maker may determine it is substantially similar to a listed use and therefore allowed for the same level of review if:
1. The proposed use substantially meets the intent of and is consistent with the goals, objectives, and policies of the Comprehensive Plan;

2. The proposed use meets the stated purpose and general intent of the zone in which the use is proposed to be located;
3. The proposed use shares characteristics common with and is not of greater intensity, density or generate more environmental impact than those uses listed in the zone in which it is to be located.

Chapter 19.44 Supplemental Use Criteria

19.44.010 Generally.

The requirements described in this chapter apply in addition to any other requirements of this code.

19.44.020 Accessory Dwelling Units

- A. Purpose. The purpose of an accessory dwelling unit is to:
 1. Add affordable units to existing housing and make housing units available to moderate-income people who might otherwise have difficulty funding homes within the city;
 2. Develop housing units in single-family neighborhoods that are appropriate for people at a variety of stages of their lives;
 3. Provide homeowners with a means of obtaining, through tenants in either the accessory dwelling unit or the principal residence, rental income, companionship, or security;
 4. Protect neighborhood stability, property values, and the character of the neighborhood.
- B. Applicability. This section applies to accessory dwelling units.
- C. Standards and criteria.
 1. An accessory dwelling unit may be established by any one or combination of the following methods:
 - a. Alteration of interior space of the residence; or
 - b. Conversion of an attic, basement, attached garage, or other portion of a residence; or
 - c. Addition of attached living area onto an existing residence;
 - d. Construction of a detached living area; or
 - e. New construction.
 2. Each single-family residence may have only one accessory dwelling unit and these two units may not be condominiumized.
 3. One of the dwelling units must be occupied by one or more owners of the property as the owner's permanent and principal residence. "Owners" include title holders and contract purchasers. The applicant must record a notice against the property title with the County Auditor, on forms provided by the Department, describing this requirement.
 4. The total number of persons who may occupy the principal and accessory dwelling units combined may not exceed the number of persons that are defined by this title as a "family."
 5. The habitable floor area of the accessory dwelling unit may not exceed 900 square feet.

6. Any accessory dwelling unit included within a primary residence must have no interconnected interior spaces.
7. A total of at least three parking spaces must be provided for the principal and accessory dwelling units. On-street parking may satisfy one parking space requirement where curb, gutter, and sidewalk exist on the street(s) abutting the property.

19.44.030 Adult Concessions

Reserved.

19.44.040 Bed and Breakfasts

- A. Purpose. This section is intended to ensure parking, impact on surrounding neighbors, health and safety, and other considerations limit any adverse impacts of bed and breakfasts on the surrounding neighborhood.
- B. Applicability. This section applies to all bed and breakfasts.
- C. Requirements.
 1. The owner must be the operator of the facility and must reside on the premises.
 2. The owner's quarters and guest rooms must all be in the main building.
 3. If located in a residential zone, the facility must be operated in such a manner as not to give the outward appearance of a business, in the ordinary meaning of the term, and may not infringe upon the right of the neighboring residents to enjoy a peaceful occupancy of their homes.
 4. The use must provide off-street parking, including at least two spaces for the owner and one for each guest room.

19.44.050 Essential Public Facilities

Reserved.

19.44.055 Home Occupations

- A. Purpose. The purpose of a home occupation is to allow certain activities to be undertaken for gain or profit within a dwelling, or a building accessory to a dwelling, in any zone in which dwellings are present, while maintaining the residential character of the property and avoiding detrimental effects to the surrounding neighborhood.
- B. Applicability. This section applies to all home occupations except a home office or home telephone or internet sales, or similar use, with no customer or employee visits to the site.
- C. Requirements.
 1. The occupation must not create any noise, dust, glare, vibration, odor, hazardous waste, smoke, electrical interference, or other adverse impact to the surrounding residential area.
 2. The primary use of the premises must be residential and at no time may the home occupation exceed 25% of the floor area of the dwelling unit, not including the garage.

Commented [GL28]: Revised.

3. There may be no exterior indication of the occupation, including no outdoor storage related to the occupation, nor exterior modification of the building(s) to accommodate the occupation, other than allowed signs.
 4. No person other than members of the family residing on the premises may be engaged in such occupation.
 5. If the occupation requires that customers or clients visit the premises, adequate off-street parking must be a condition of the permit, and traffic generated by the business may not exceed that which might reasonably be generated by residential use of the premises.
 6. A home occupation permit may not be transferred to another person.
 7. All regular business license requirements must be met.
- D. Any expansion or change of the nature of the home occupation that does not qualify for a minor permit revision requires a new permit.

19.44.060 Marijuana Producers, Processors, and Retailers

Reserved.

19.44.070 Recreational Vehicle Parks.

Reserved.

19.44.080 Schools

Reserved.

19.44.090 Telecommunications Facilities

Reserved.

Chapter 19.49 Non-Conforming Uses and Structures

- A. Intent. Any lot, building, structure, or use of land, legally permitted or established at the time of the adoption of the ordinance codified in this Chapter, will be permitted to continue. A change in occupancy or ownership will not affect such right to continue such use, building, or structure. The intent of this Chapter is:
 1. To permit these nonconformities to continue until they are removed, but not to encourage their survival, except as expressly provided in this Section; and
 2. That nonconformities will not be used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district; and
 3. That nonconforming uses or structures not be allowed to expand, be altered or reconstructed except as otherwise outlined in this Section.
- B. Enlargement, Alteration, Expansion or Change of Nonconforming Uses.
 1. Nonconforming Uses. No nonconforming use may be permitted to be enlarged, altered, or expanded, except that a nonconforming use may be extended throughout any part of the building which was designed for its use prior to the time of the adoption of this Chapter.

This extension is allowed; provided, that no structural alterations, except those required by law, are made therein, and that no expansion of the structure or parking requirements occurs.

2. No nonconforming use may be allowed to be reestablished after abandonment. Thereafter, the use of the building, structure or site must be in conformity with the regulations for the district in which it is located.
 3. A nonconforming use may not hereafter be changed to any other nonconforming use, regardless of the conforming or nonconforming status of the building in which it is housed.
- C. Enlargement, Alteration, Reconstruction of Nonconforming Buildings and Structures.
1. Routine maintenance and repairs may be performed on a nonconforming structure or building.
 2. When a nonconforming building or structure is damaged by fire, natural disaster, or other calamity, and structural repairs needed to maintain a building or structure in a safe structural condition, the building or structure may be restored or replaced provided:
 - a. A complete application for reconstruction or replacement is submitted within one year of the damage, and
 - b. That the restoration or replacement must be made to conform to the regulations of the zoning district in which the building or structure is located, or if such regulations cannot physically be met without reducing the size of the building, the restoration may not extend any nonconformity that existed prior to the damage.
 3. Additions to nonconforming structures that meet all applicable zoning dimensional standards will not be considered an enlargement under this Subsection.
- D. Abandonment. For the purposes of this Subsection, abandonment will mean:
1. An intention to abandon; and
 2. An overt act, which carries the implication that the owner does not claim or retain any interest in the right to the nonconforming use.
- E. Conformance after Abandonment. If any nonconforming use of land, building, or structure ceases for any reason whatsoever for a period of one year or more, any future use of such land, building or structure must thereafter be in conformity in the zoning district in which it is located. The mere presence of a structure, equipment, or material will not be deemed to constitute a continuance of a nonconforming use unless the structure, equipment, or material are actually being occupied or employed in maintaining such use.
- F. Procedure for Verifying Abandonment. When the Department obtains information indicating that a nonconforming use, building or structure has or may have been abandoned, the Department must send a letter by certified mail return receipt requested to the property owner requesting confirmation of either abandonment or non-abandonment. Documentation that the nonconforming use, structure, or building has been occupied, used, or maintained within the last year will be required. After notification, if the owner fails to respond to the request within 60 days, the building, structure, or use will be deemed abandoned. If the owner replies that the building, structure, or use is not abandoned, the Department may initiate a Level 3 decision to determine if the abandonment has occurred.

Division 5 Community Design

Reserved.

Division 6 Project Design

Reserved.

Division 7 Environment

Chapter 19.70 Critical Areas

Reserved.

Chapter 19.72 Shorelines

Reserved.

Chapter 19.76 Stormwater

Reserved.

Chapter 19.78 Clearing and Grading

Reserved.

Division 8 Development Agreements

Chapter 19.80 Development Agreements

Reserved.

Chapter 19.82 Development Agreement with Port

AMC Chapter 17.74 is recodified as AMC Chapter 19.82. The code reviser is directed to include the date of adoption of the development agreement, March 29, 2005, in recodified AMC 17.17.250, and to update the cross-references in existing AMC 17.74.060.C to new AMC Chapter 19.38 Variances and new AMC Chapter 19.20 Application Procedures.

Process Matrix – Current and Proposed Land Use Permit Procedures Comparison

Based on Version Title 19 UDC v9, dated 11/11/16
November 16, 2016

Yellow Highlight = Proposed change from current AMC procedures;
PC = Planning Commission; CC = City Council; HE = Hearing Examiner

	Pre-application Neighborhood meeting		NOA / Comment Period		Recommen- dation By		Pre-Decision Open Record Hearing		Decision By		Notice of Decision		Local Appeal To / Appeal period		Appeal Hearing Type	
	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed
Accessory Dwelling Units	No	No	Yes 14 days	No	None	None	No	No	Director	Director	Yes	No	CC 5 days	HE 14 days	Not specified	Open-record
Boundary line adjustments	No	No	No	No	None	None	No	No	Director	Director	No	No	None	HE 14 days	None	Open-record
Building/mech/plumb permits	No	No	No	No	None	None	No	No	Director	Director	No	No	B of A 10 days	HE 14 days	Not specified	Open-record
Clearing and grading permits	No	No	No	No	None	None	No	No	Director	Director	No	No	CC 10 days	HE 14 days	Not specified	Open-record
Extension of time for approval	No	No	No	No	No	No	No	No	CC (PPL) Director (CAO) Director (SDP)	Director	No	No	None	HE 14 days	None	Open-record
Impact fee decisions	No	No	No	No	None	None	No	No	Director	Director	No	No	B of A 10 days	HE 14 days	Not specified	Open-record
Level 1 variances	n/a	No	n/a	No	n/a	None	n/a	No	n/a	Director	n/a	No	n/a	HE 14 days	n/a	Open-record
Shoreline exemptions	No	No	No	No	None	None	No	No	Director	Director	No	No	None	HE 14 days	None	Open-record
Minor permit revisions	No	No	No	No	None	None	No	No	Director	Director	No	No	None	HE 14 days	None	Open-record
Wireless collocation requests	No	No	No	No	None	None	No	No	Director	Director	No	No	None	HE 14 days	None	Open-record
Administrative CUPs, including Home Occ	No	Director Discretion	Yes 14 days	Yes 14 days	None	None	No	No	Director	Director	Yes	Yes	CC 5 days	HE 14 days	Not specified	Open-record
Binding site plans	No	Director Discretion	No	Yes 14 days	None	None	No	No	Director	Director	No	Yes	B of A 10 days	HE, then CC 14 days	Not specified	Open- record, then closed- record
Level 2 variances (Yet to be defined)	n/a	Director Discretion	n/a	Yes 14 days	n/a	None	n/a	No	n/a	Director	n/a	Yes	n/a	HE 14 days	n/a	Open-record
Preliminary short subdivisions up to 4 lots	No	Director Discretion	Yes 14 days	Yes 14 days	None	None	No	No	Director	Director	Yes	Yes	CC 15 days	HE, then CC 14 days	Open- record	Open- record, then closed- record

	Pre-application Neighborhood meeting		NOA / Comment Period		Recommendation By		Pre-Decision Open Record Hearing		Decision By		Notice of Decision		Local Appeal To / Appeal period		Appeal Hearing Type	
	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed
SEPA threshold determinations	No	Director Discretion	No	No	No	None	No	No	Director	Director	No	No	None	HE, then CC 14 days	None	Open-record, then closed-record
SWMM adjustments and exceptions																
Special use permits for towers or antennas	No	Yes	Yes 14 days	Yes 21 days	Director	Director	CC	HE	CC	HE	Yes	Yes	None	CC	None	Closed-record
Level 3 Variances (Yet to be defined)	n/a	Yes	n/a	Yes 21 days	n/a	Director	n/a	HE	n/a	HE	n/a	Yes	n/a	CC 14 days	n/a	Closed-record
Preliminary short subdivisions of 5-9 lots	No	Yes	Yes 14 days	Yes 21 days	None	Director	No	Yes	Director	HE	Yes	Yes	CC	CC 14 days	Open-record	Closed-record
CUPs, except Administrative CUPs	No	Yes	Yes 14 days	Yes 21 days	Director	Director	PC	PC	CC	PC	Yes	Yes	None – can appeal PC rec to CC	CC 14 days	None	Closed-record
Shoreline Substantial Development Permit	No	Yes	Yes 30 days	Yes 30 days	Director/PC	Director	PC	PC	PC if < 3 ac, 1mil CC if > 3ac, 1mil	PC	Yes	Yes	CC if PC decision (5 days), otherwise SHB	CC 14 days	Closed-record	Closed-record
Shoreline CUP & Variance	No	Yes	Yes 30 days	Yes 30 days	Director/PC	Director	PC	PC	PC if < 3 ac, 1mil CC if > 3ac, 1mil	PC	Yes	Yes	CC if PC decision (5 days), otherwise SHB	CC 14 days	Closed-record	Closed-record
Special use and reasonable use permits per AMC 17.70	No	Yes	Yes 14 days	Yes 21 days	PC	Director	PC	PC	CC	PC	Yes	Yes	None	CC 14 days	None	Closed-record
Any other applications identified as “conditional uses” in AMC Title 17	No	Yes	Yes 14 days	Yes 21 days	PC	Director	PC	PC	CC	PC	Yes	Yes	None	CC 14 days	None	Closed-record
EPFs, type 1 and 2	Yes	Yes	Yes	Yes	Director	PC	No	PC	CC	CC	Yes	Yes	None	None	None	None
Manufactured home subdivisions	No	Yes	Yes 14 days	Yes 21 days	PC	PC	PC	PC	CC	CC	Yes	Yes	None	None	None	None
Preliminary long subdivision	No	Yes	Yes 14 days	Yes 21 days	PC	PC	PC	PC	CC	CC	Yes	Yes	None	None	None	None
Site-specific rezone authorized by comp plan	No	Yes	Yes 14 days	Yes 21 days	PC	PC	PC	PC	CC	CC	Yes	Yes	None	None	None	None

November 9, 2016

Good Evening Commissioners,

My name is Marilyn Wells Derig. I reside at 1302 K Avenue here in Anacortes.

I have two concerns that I wish to bring to your attention.

For the first concern, I call your attention to the matrix, version 11/2/2016. Under Type 1 Administrative Ministerial Actions, no notice is required of the administrator. That means that for a Boundary Line Adjustment (BLA) approval, no neighborhood notice is given. So neighbors are unaware of developments that utilize this method of application, and cannot raise concerns in a timely manner, even if it dramatically affects their neighborhood. See recent BLA's on properties on 12th and D and on West 10th to see the extent of these boundary line adjustments. These are not adjusting lines between two agreeable neighbors. No notice was given to neighbors. I suggest that BLA's need to be handled through a mechanism that requires notice.

My other concern relates to standing. Currently any "aggrieved" person who submits a written comment or speaks at a Planning Commission meeting may appeal. The suggestion is to replace that process. Please see 19.10.210. I quote:

Appeals.

A. Standing. The following parties have standing to appeal final decisions:

1. The Director;
2. The applicant;
3. Any owner of the property subject to the application;
4. Any party of record when all of the following conditions are present:
 - a. The land use decision has prejudiced or is likely to prejudice that person;
 - b. That person's asserted interests are among those that the City was required to consider when it made the land use decision; and
 - c. A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision."

Please note: This is a requirement for bringing an action before the Superior Court. What if a "local decision maker" incorrectly ruled that you have no "standing?" You have no remedy in Superior Court because you no longer meet the requirement 4b.

Thank you for your consideration of my concerns.

Marilyn Wells Derig

mdерig@me.com

360-293-3928

J. Lauridsen
11/9/16

11/9/2016 AMC PROPOSED CODE CHANGES

1. THE DIRECTOR HAS NO OBLIGATION TO FOLLOW AND ENFORCE THE LAW

Repealed:

~~16.04.105—Enforcement, violations and penalties.~~

~~A. General.~~

~~1. It shall be the duty of the administrator to enforce these requirements and to bring to the attention of the city attorney or his/her designated agent any violations of these regulations.~~

~~2. No owner, or agent of the owner, of any parcel of the land located in a proposed subdivision shall convey title to any part of the parcel before a final plat of the subdivision has been approved by the city council in accordance with the provisions of the regulations and filed with the county auditor.~~

~~3. The subdivision of any lot or any parcel of land, by the use of metes and bounds described for the purpose of sale, transfer, or lease is prohibited.~~

~~4. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the city have any obligation to issue certificates of occupancy or to extend utility services to any parcel created in violation of these regulations.~~

Repealed All of 17.08 to include:

~~17.08.010—Administrator.~~

~~It shall be the duty of the administrator to administer and enforce this title.~~

Repealed:

~~17.08.020—Building permits.~~

~~A. No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the building official. No building permit shall be issued except in conformity with the provision of this zoning code, city subdivision ordinance, street standards, building codes and other applicable ordinances.~~

ALL REPLACED WITH NEW TITLE 19 CODE SECTION

19.02.070 No special duty created.

A. It is the purpose of this title to provide for the health, welfare, and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this title. No provision or term used in this title is intended to impose any duty whatsoever upon the city or any of its officers, agents, or employees for whom the implementation or enforcement of this title is discretionary and not mandatory.

2. THE DIRECTOR HAS NO OBLIGATION TO RESPOND COMPLAINTS, MAINTAIN A RECORD OF COMPLAINTS AND GIVEN LICIENCE TO IGNOR COMPLAINTS

REPEALED

~~17.08.050—Complaints regarding violations.~~

~~Whenever a violation of this title occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the administrator. The administrator shall properly record such complaint, immediately investigate, and take action thereon as provided by this title, and shall notify the complainant of any conclusion reached or action taken. (Ord. 2316 (part), 1994)~~

REPLACED WITH:

20.20.020 Investigation—Right of entry.

A. Investigation and Follow-Up.

1. Any person who believes a civil violation has occurred may notify the Director.
2. The Director must investigate an alleged civil violation and confirm it has occurred before proceeding to correct it.
3. Generally, the Director should use a graduated enforcement process that uses notification and education as a first step and should offer property owners the opportunity to correct violations before imposing fines.
4. The Director may decide not to take action to correct a violation, especially for de minimus violations or violations that require interpretations or discretionary judgments of the applicability of the land use code

3. NO METHOD TO REQUEST AN INTERPRETATION OF TERMS

REQUIRED BY

RCW 36.70B.110

(11) Each local government planning under RCW 36.70A.040 shall adopt procedures for administrative interpretation of its development regulations.

REPEALED

~~17.08.080—Duties of administrator, building official, board of adjustment, and city council on matters of appeal.~~

~~A. All questions of interpretation and enforcement shall be decided by the administrator.
B. Questions of interpretation and enforcement of this title and the building codes shall be presented to the board of adjustment only on appeal within ten days from the final decision of the administrator. Recourse from the decision of the board of adjustment shall be to the courts as provided by law.~~

REPLACED WITH

19.02.030 Administration

B. Counter information. The Director may respond to inquiries regarding the applicability and interpretation of various code provisions prior to or outside the context of a specific development permit application. These general counter requests for information are for public convenience only and are not binding on the City nor appealable.

4. DEFEATS PUBLIC PARTICIPATION ON APPEAL

“STANDING” TO APPEAL

Currently any “aggrieved” person who submits a written comment or speaks at a Planning Commission meeting may appeal.

REPLACED WITH

19.10.210 Appeals.

- A. Standing. The following parties have standing to appeal final decisions:
1. The Director;
 2. The applicant;
 3. Any owner of the property subject to the application;
 4. Any party of record when all of the following conditions are present:
 - a. The land use decision has prejudiced or is likely to prejudice that person;

- b. That person's asserted interests are among those that the City was required to consider when it made the land use decision; and
- c. A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision.

Note: This is a requirement for bringing an action before the Superior Court. What if a "local decision maker" incorrectly or maliciously rules that public participant has no "standing?" The party would have no remedy in Superior Court because they no longer meet the requirement 4b.

P. O'Hearn
11/9/16

19.02.070 No Special Duty created.

A. No provision or term used in this title is intended to impose any duty whatsoever upon the city or any of its officers...for whom the implementation or enforcement of this title is discretionary and not mandatory Does this give discretion to the director to enforce or implement portions of the title, if so, how is that discretion overseen? What records will be kept when the city declines to implement or enforce portions of this title?

19.10.180 Hearings and Meetings- There has been discussion of fees for appeals to the Hearing Examiner. For Type 3 HE decisions including Level 3 variances (what ever those are), and short plat subdivisions up to 4 lots the Hearing Examiner conducts the Public Hearing. We need to be assured that no fee will be imposed for any Public Hearing, regardless of the body holding the public hearing.

19.10.190 Notice of Decision

A When a final decision is made that requires a Notice of Decision per AMC 19.10.030 (Matrix)...

Type 1 and 2 are decisions by the Director with appeal to the Hearing Examiner. Type 3 HE is a decision by the Hearing Examiner with appeal to the City Council. Type 3 PC is a decision by the Planning Commission with appeal to the City Council. Type 4 has no local appeal process.

Type 1 decisions- While there is a provision for type 1 director decisions to be appealed, there is no notice provision which would realistically allow anyone other than the applicant to appeal the decision. As noted below, several types of decisions in this category could have significant impact on an existing neighborhood and there should be the ability for parties other than the applicant to weigh in on a Directors decision (Accessory Dwelling Units, Boundary Line Adjustment, and "minor" permit revisions)

Type 4- City Council Decisions- Long subdivisions (over 9 lots) which are arguably the most involved and intrusive of subdivisions have no local appeal process. There is an open record hearing before the Planning Commission which recommends action to the City Council which then makes a decision without any further hearing. There is no appeal from the Council decision. While the City is correct in limiting hearings to one open and one closed hearing, in this case it appears that a closed record hearing would not be allowed per the matrix.

19.10.120 Pre application neighborhood meeting- The proposed code rightly strengthens this important step. It makes a neighborhood meeting mandatory in many cases, and at the directors discretion in some. Most importantly, it requires a neighborhood meeting to be held at a public location and at a time most likely to allow neighbors to attend. It also requires a third party facilitator. All of these requirements make it more likely that this would be a meeting to discuss the project rather than just a forum for the developer to give lip service to a meeting.

19.10.160 Public Hearing and Meetings-

B. Swearing in required. –This sections should make it clear that “a party who desires to submit evidence” includes city staff testimony.

19.10.210 Appeals

A.4. Any party of record when all of the following conditions are present

Standing for an appellant is only allowed when three conditions are met. These conditions are copied from the State RCW LUPA statute. Additionally, comment RW33 states “*The appellate body needs explicit authority to determine standing...*”. This is a direct attempt to limit who may appeal a decision by the Director, Hearing Examiner, or Planning Commission. While state statute creates conditions for standing in a LUPA action, it is vital to remember that the LUPA action and standing issues are decided by a neutral third party, a Superior Court Judge. In this case, the very body that oversees the hiring of the decision maker would determine if a party had standing to appeal that decision makers ruling. Presumably the hearing body (either the Hearing Examiner or the City Council) would rely on advice from the City Attorney as to a whether or not a party had standing. None of this achieves any measure of independence in either appearance or fact. To reiterate, LUPA rules were created to allow an appeal to an independent 3rd party. To try to apply LUPA restrictions to a totally “in house” procedure puts a proposed appellant on an unequal footing. Additionally, by excluding a party from the appeal, that would exhaust “his or her administrative remedies to the extent required by law.” *RCW 19.10.200.C.1*. This could create a situation where a denied appellant could file a LUPA appeal to have their standing recognized before an appeal hearing could go forward.

An appeal is timely only if it is filed with the director within 14 calendar days... Since when is “the director” anything other than an employee of the City. The appeal should be filed with the City Clerk or the Mayor as officials of the City able to accept service. Additionally, the Director is often the person whose decision is being appealed.

An appeal must also be accompanied by the appropriate appeal fee (*19.10.200.C.2*). In discussions before the Council appeal fees to offset the cost of a Hearing Examiner have been discussed but this would seem to require fees to appeal an action to the City Council. The idea that a Citizen of Anacortes would be precluded from appealing to their elected representatives without paying a fee is repugnant on its face.

19.10.210 C. Permissive Joinder- “At the discretion of the hearing body, a party with standing to appeal may be added to the appeal after the appeal period has run.” Just as the hearing body would have unfettered power to determine who could appeal, this give the body carte blanche to add persons to the appeal without any justification. If one of the goals of the Title 19 rewrite is to make decisionmaking more transparent, open, and reduce controversy, this section and the standing section go in the opposite direction and can give the appearance of a “thumb on the scale”.

19.10.200 K. *“Preparation of transcripts and record. The appellant must pay the cost of preparing transcripts of public hearings and meetings and all other records ordered certified by the court or desired by the appellant for the appeal”* . While this language is mostly lifted wholesale from the State LUPA statutes, care should at least be exercised to adapt the language to the City of Anacortes. There is no **court** involved. Again, to require a citizen to bear the cost of appealing “the director’s” decisions to the elected council creates a “pocketbook democracy” that limits access to only those with the money to buy the access.

19.10.210.I- This removes the requirement that a Notice of Decision be given to all involved parties. It allows mere publication of the Notice of Decision.

Finally the proposed code eliminates language in the current code that makes citizens aware that final decisions can be appealed to Superior Court with a LUPA petition. While this elimination cannot stop a LUPA appeal, the omission gives an appearance of finality to the “final decision” that does not really exist. Reference to external appeals should be put back into the code revision.

19.10.310 Permit Revision - This section allows the Director to make “minor revisions” to an approved permit. It goes on to give five qualifications of a minor revision. Importantly it removes a requirement in the 10/3/2016 draft “Significantly more or different impact on the surrounding area than does the present development, as determined by the director. In determining impact, the Director shall consider the scale of the proposed expansion or modification and expected changes to traffic, noise, hours of operation, and parking:”. Removal of this language removes any requirement to consider the “minor revision” impact on the surrounding neighborhood. This section would allow the Director to ignore impact to the neighborhood and focus only on the impact to the project itself.

19.60.030- Accessory Dwelling Units- This is a major change in that ADU’s become an Allowable use rather than a Permitted Use. It envisions ADU’s being created throughout the City with no notice to neighbors. There would be a stated appeal to the Hearing Examiner but, in reality, without notice no appeal by anyone other than an applicant would be a practical impossibility. It also sets up a scheme whereby enforcement of the requirements of an ADU would depend on a yearly certification to the City which, as is pointed out in comment [GL 31] would be hard to track. Wholesale unleashing of ADU’s without any realistic means of controlling them will inevitably lead to neighborhood disputes, uneven and arbitrary enforcement, and a variety of Air B&B’s, vacation homes, guest cottages and other uses outside the stated goal of providing for affordable housing. Additionally, how does the City propose to fund the additional staffing load that would be required to ensure that ADU’s are in compliance with code and meet the goals as stated in this Chapter?

19.60.055 Home Occupations

B. 2. Side effects of equipment used in the home occupation no longer prohibits generation of hazardous waste, or glare affecting adjacent properties

B.3. Removes the requirement that no more than 25% of the home may be used in the occupation and replaces it with the nebulous statement “The primary use of the premises shall be residential and at no

time shall the home occupation be the predominant use". While 25% is an arbitrary figure, the phrase that replaces it is realistically unenforceable.

B.4 Adds the requirement that no person other than members of the family residing on the premises can engage in such occupation. While that sounds good, the definition of a "family" in the new Chapter 19 includes up to "five unrelated persons living together in a single unit". Additionally, it removes the requirement that there be adequate off street parking and replaces it with the phrase "required parking", whatever that means.

4

PATRICK O'HEARN
11039 POST DRIVE

Grage, Libby

From: Mount, Jeff
Sent: Thursday, November 10, 2016 11:07 AM
To: Measamer, Don; Grage, Libby
Subject: title 19 comments

I compiled the following notes after the meeting last night. If there is anything else I can do to help please don't hesitate to ask.

- 1) 19.08.100 in the section on reasons for deferring action, #2 seems more like a reason not to defer action
- 2) Table 19.10.030-1 references Title 17 several times, which I believe will be superseded by title 19.
- 3) The hearing examiner seems like an extra layer of bureaucracy with a very narrow niche of responsibility. What do we gain from this?
- 4) 19.10.140 In E the address of the project should be included in the notice
- 5) 19.10.130 c.4.a says "the applicant may make minor revisions to the applicant" While technically true, this is probably not the intent.
- 6) 19.10.230 I am confused on the circumstances in which a reconsideration would happen rather than an appeal.
- 7) 19.10.330 D.2 included should be revised to include.

Grage, Libby

From: Gene Derig <gderig@me.com>
Sent: Friday, November 11, 2016 8:41 PM
To: Laumbatus, Marty; Mount, Jeff; Doll, Andrea; Cleland-McGrath, Christine; Moffitt, Amber; Oppel, Curt; McNett, Jeremy
Cc: coa.mayor; Measamer, Don; Grage, Libby; Nelson, Kaitlynn; Stewart, Joann; Cricchio, Kevin
Subject: Comments for Planning Commission from the meeting 11/9/16

Anacortes Planning Commission
Anacortes, WA

Dear Chairman Laumbattus and Planning Commissioners,

These are my comments for the Planning Commission meeting of 11/9/16.

#1—RE: The expanding powers of a possible Hearing Examiner.

Originally, we were told that the Hearing Examiner position, if adopted, would have limited responsibilities, only applying to such things as Variances and Special Use permits for antennas and cell towers. Now we find in the most recent version of the matrix that preliminary short sub-divisions of 5-9 lots are now included under the jurisdiction of the Hearing Examiner. Why is there an expansion of powers at this time? The position has not been approved and we haven't even cleaned up our codes yet!!

#2— RE: Question of "Frivolous Appeals"

The last time we attended a Planning Commission meeting the subject was raised of a fee or other charge per appeal to any City body. The Chairman offered that such a fee might be preclude "frivolous appeals". What is a "frivolous appeal"? Why would it be deemed in the best interest of the public for citizens to have to "pay -to-play", as it were, in order to appeal a Planning Commission decision to City Council as illustrated in column 3, under PC of the latest matrix?

Thanks for your time.

Gene Derig
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