ANACORTES PLANNING COMMISSION

OCTOBER 12, 2016

Municipal Building Council Chambers

6th Street and "Q" Avenue

AGENDA

6 P.M.

1. **Roll Call**

2. **Minutes of September 14, 2016**

3. **Correspondence**

4. **Old Business**
   No Old Business

5. **New Business**
   - **a.** **Public Hearing:** Amend AMC 17.64.070, *State licensed marijuana producers, processors, and retailers*, to prohibit medical marijuana cooperatives in all zones
   - **b.** **Discussion:** Overview of 2016 / 2017 Anacortes Municipal Code amendments goals and topics
   - **c.** **Discussion:** Introduction to 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; general provisions, definitions, legislative actions, impact fees, nonconforming uses, variances, and reasonable use exceptions.

The City of Anacortes encourages people with disabilities to participate in public meetings.
For assistance with special needs, please contact Cherri Kahns at 360-299-1950 at least 48 hours prior to this meeting.

Planning Commission Meeting
Minutes for –September 14, 2016

Chair Laumbattus called the Meeting of September 14, 2016 to order at approximately 6 p.m.

Roll Call

Members Present: Commissioners Laumbattus, Oppel, Moffitt, McNet, and Cleland McGrath.

Minutes

Meeting minutes of August 10 were approved as read.

Correspondence

No correspondence was presented.

Old Business

Public Hearing & Workshop – Low Impact Development Regulations

John Franz, Stormwater Coordinator, spoke on the eighth version of the draft associated with updates to the stormwater municipal code. The previous draft before the Planning Commission was the fourth version. The Department of Ecology is requiring compliance with the Phase 2 stormwater permit by the end of the year, which this code update would satisfy.

Commissioner Oppel expressed concerns with putting a burden on affordable home building. Mr. Franz clarified that the municipal code update is a mandated action from the DOE. The City is taking steps to assist home builders meet the new requirements.

Commissioner Cleland-McGrath questioned whether other cities in the county have gone through this process for reference. Mr. Franz clarified that Skagit County has, but the other cities in the county are also working on this update, so none have been fully implemented yet.

Don Measamer, Director, took a moment to explain what steps the City will be taking to make the transition of adopting this code easier on the public, like handouts and mapping.

Commissioner Oppel asked if engineers are required to stamp plans. Mr. Franz clarified that an adjustment can be written and approved by the administrator. Exemptions to the new stormwater code cannot be written into the code because it is a state regulation, but all adjustments must be reported to the DOE.

With no comments, the public hearing closed

DRAFT

Chair Laumbattus requested clarification on the difference in work that will be required for projects with these new updates. Mr. Measamer explained the process, including that post development stormwater runoff cannot exceed predevelopment conditions.

Commissioner Oppel inquired about the purpose of the section of code that prohibits subdivision after clearing. Mr. Measamer clarified that it is meant to discourage clearing of land before having decided intent, and it is an already existing code.

Chair Laumbattus requested clarification on the section of code that discusses techniques and facilities, as it sounds like a Planned Unit Development. Mr. Measamer stated that the code is taken directly out of the stormwater permit to encourage preserving more open space and vegetation by clustering of homes, but it is not related to a PUD.

Commissioner McNet asked how LID would work with City projects. Mr. Measamer explained that there are specific requirements that are triggered for things like road projects for the City.

Commissioner McNet made a motion to move the LID Draft Code forward. Commissioner Oppel seconded it. The motion passed unanimously.

Chair Laumbattus called the meeting to a close at approximately 6:45 p.m.

DRAFT

Planning Commission Agenda Bill

Meeting Date: 10/12/2016 Agenda Item: 5a

Subject: Proposed amendment to AMC 17.64.070, *State licensed marijuana producers, processors and retailers,* to prohibit Medical Marijuana Cooperatives in all zones

Staff Contact: Don Measamer, PCED Director

Approved for Submittal to Council by	
	Laurie Gere, Mayor
x	Don Measamer, PCED Director

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

Summary Statement: A public hearing is scheduled this evening to take public input on the proposed amendment to AMC 17.64.070, *State licensed marijuana producers, processors and retailers,* to prohibit Medical Marijuana Cooperatives in all zones within the city limits.

Background: Senate Bill 5052 and House Bill 2136 changed state rules for medical and retail marijuana businesses and patients. Effective July 1, 2016, the statutes on "collective gardens" were repealed and replaced by a statute authorizing "cooperatives" for the growing of marijuana for medical use. The Anacortes Municipal Code is currently silent on medical marijuana cooperatives. After following the work plan adopted by Res. #1944 and considering the issued involved, including potential for negative impacts on neighborhoods arising from such facilities, staff recommends prohibiting medical marijuana cooperatives as described in RCW 69.51A in all zones of the City.

Previous Council/Committee Action: The City Council passed Ordinance #2964 on December 7, 2015 eliminating collective gardens from the Anacortes Municipal Code and passing a moratorium on medical marijuana cooperatives in the interest of the protection of public health and safety and to provide time to evaluate alternatives. On February 1, 2016 Council adopted a work plan (Res. #1944) to explore and develop new medical marijuana policies and code.

Competing Viewpoints Considered: A public hearing will be held tonight to take public input.

Recommended Motion: I move that the Planning Commission recommend approval of Ordinance 2989 prohibiting medical marijuana cooperatives in all zones in the City of Anacortes.

Alternative Actions: After the public hearing, the Planning Commission could have further discussion, request more information, and/or make a different recommendation to council.

Attachments (listed in order presented):

Proposed Ord. 2989, amending AMC Section 17.64.070, prohibit medical marijuana cooperatives in all city zones
DNS & SEPA Checklist

Ordinance No. 2989

An Ordinance Amending Anacortes Municipal Code Sections 17.64.070, Prohibiting Medical Marijuana Cooperatives in all City Zones.

Whereas the Anacortes Municipal Code is currently silent on Medical Marijuana Cooperatives described in Chapter 69.51A of the Revised Code of Washington.

Whereas the City Council desires to update the Anacortes Municipal Code to address Medical Marijuana Cooperatives.

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

Section 1. Anacortes Municipal Code Section 17.64.070 entitled "State licensed marijuana producers, processors, and retailers" is hereby revised to add the following subsection (E).

E. Medical Marijuana Cooperatives, as described in Chapter 69.51A of the Revised Code of Washington, are prohibited in all zones in the City of Anacortes.

Section 2. This ordinance shall take effect five (5) days from and after its passage, approval and publication in the manner required by law.

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

Proposed Amendments to AMC 17.64.070

17.64.070 - State licensed marijuana producers, processors, and retailers.

A. Purpose. The purpose of this chapter is to further clarify the provisions of Washington State law, including Initiative—502 and chapter 69.51A RCW, as it pertains to the use of land within the city, and to establish where recreational and medical marijuana producers, processors and retail outlets may locate in the city, and to describe restrictions upon such uses.

B The City hereby adopts the definitions in WAC 314-55-010 and RCW 69.50.101.

C. Marijuana Related Uses.

1. All marijuana production shall occur within indoor facilities. Outdoor production as may be permitted by the state is expressly prohibited by this section.

2. Portable marijuana production, processing or retail outlet units are prohibited.

3 Applicants for marijuana producers and processors shall submit calculations, prepared by an approved professional engineer, estimating water and sewer use.

4. The subsequent establishment of a use listed in WAC 314-55-050(10) within one thousand feet of a legally established and licensed marijuana producer, processor or retail outlet shall not render the marijuana producer, processor, or retail outlet non-conforming in regard to location under this section.

D. Any and all permits for the use or construction of facilities to produce, process or sell marijuana in the City of Anacortes shall bear the following warning:

"The production, processing, sale and use of marijuana are a criminal activities under federal law and may subject any person engaging in such conduct to prosecution under federal law. The issuance of this permit by the City of Anacortes carries out a Washington State regulatory scheme, but does not affect the application of federal law to the permittee."

E. Medical Marijuana Cooperatives, as described in Chapter 69.51A of the Revised Code of Washington, are prohibited in all zones in the City of Anacortes.

(Ord. No. 2925, § 3, 7-7-2014; Ord. No. 2964, § 7, 12-7-2015)

SEPA Determination of Non-Significance (DNS):

Description of Non-Project Action Proposal: The City of Anacortes is proposing an amendment to Anacortes Municipal Code 17.64.070 entitled "State licensed marijuana producers, processors, and retailers" to add subsection (E) prohibiting Medical Marijuana Cooperatives as described in Chapter 69.51A of the Revised Code of Washington in all zones in the City of Anacortes (Ordinance #2989).

Proponent: City of Anacortes; Department of Planning, Community, & Economic Development

Location of Proposal: City of Anacortes city limits

Lead Agency: City of Anacortes - Department of Planning, Community, & Economic Development

Threshold Determination: The lead agency has determined that this non-project proposal does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

☐ There is no comment period for this DNS.

☒ This DNS is issued under WAC 197-11-340(2); the City of Anacortes will not act on this proposal for 14 days from the date of this notice. **Written comments on this threshold determination must be submitted by 5:00 PM. Wednesday, October 5, 2016.** Pursuant to the procedures adopted under AMC Chapter 18.04.250, no administrative appeal of the SEPA threshold determination is provided for this legislative action. The SEPA threshold determination may be appealed to the Skagit County Superior Court under RCW 43.21.C.075 after the City's final action on the underlying action(s). The issuance of this DNS does not constitute project approval.

Comments: Please direct any comments concerning this threshold determination to:

Don Measamer, Planning Director, P.O. Box 547, Anacortes, WA 98221; don@cityofanacortes.org

SEPA Responsible Official: Don Measamer, Director, Department of Planning, Community & Economic Development

Don Measamer, Director,
Planning, Community & Economic Development

Date of Issuance: **September 14, 2016**

SEPA ENVIRONMENTAL CHECKLIST

Purpose of checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants: [help]

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals: [help]

For non-project proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

A. BACKGROUND [help]

1. Name of proposed project, if applicable: [help]

The City of Anacortes is proposing an amendment to Anacortes Municipal Code 17.64.070 entitled "State licensed marijuana producers, processors, and retailers" to add subsection (E) prohibiting Medical Marijuana Cooperatives as described in Chapter 69.51A of the Revised Code of Washington in all zones in the City of Anacortes (Ordinance #2989).

2. Name of applicant: [help]

City of Anacortes, P.O. Box 547, Anacortes, Washington 98221

3. Address and phone number of applicant and contact person: [help]

Don Measamer, Planning Director; Department of Planning, Community, & Economic Development; City of Anacortes; PO Box 547, Anacortes, WA 98221; Office Phone 360-293-1901

4. Date checklist prepared: [help]

Wednesday, September 14, 2016

5. Agency requesting checklist: [help]

City of Anacortes; Department of Planning, Community, & Economic Development

6. Proposed timing or schedule (including phasing, if applicable): [help]

Public hearing on the proposed medical marijuana cooperative code amendment to AMC 17.64.070 during October 2016, with possible adoption by City Council in November 2016.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. [help]

No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal. [help]

The proposed code amendment to the Anacortes Municipal Code would prohibit medical marijuana cooperatives within the city limits of the City of Anacortes.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain. [help]

The proposed amendment to the municipal code will need to be approved by the City Council.

10. List any government approvals or permits that will be needed for your proposal, if known. [help]

No permit is required, the proposed amendments will be presented at a public hearing and will require approval by the City Council.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.) [help]

The City of Anacortes is proposing an amendment to Section 17.64.070 of the Anacortes Municipal Code regulating state licensed marijuana, producers, processors, and retailers, to include subsection "E" prohibiting medical marijuana cooperatives in all zoning districts.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist. [help]

The proposed code amendment will prohibit medical marijuana cooperatives in all zoning districts within the City of Anacortes.

B. ENVIRONMENTAL ELEMENTS [help]

1. Earth

a. General description of the site [help]

(circle one): Flat, rolling, hilly, steep slopes, mountainous,
other:

Non-applicable as the subject code amendment is a non-project action.

b. What is the steepest slope on the site (approximate percent slope)? [help]

Non-applicable as the subject code amendment is a non-project action.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils. [help]

Non-applicable as the subject code amendment is a non-project action.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. [help]

Non-applicable as the subject code amendment is a non-project action.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill. [help]

The proposed amendment is a non-project action that affects all zoning districts within the City of Anacortes.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. [help]

The proposed code amendment is a non-project action and not applicable to a specific parcel or building site.

g.About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? [help]

Not-applicable as the proposed code amendment is a non-project action not applicable to a specific parcel or building site.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any: [help]

Not-applicable as the proposed code amendment is a non-project action not applicable to a specific parcel or building site.

2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known. [help]

Not applicable as the proposed code amendment is a non-project action not applicable to a specific parcel or building site.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. [help]

Not applicable as the proposed code amendment is a non-project action not applicable to a specific parcel or building site.

c. Proposed measures to reduce or control emissions or other impacts to air, if any: [help]

Not applicable as the proposed code amendment is non-project action not applicable to a specific parcel or building site.

3. **Water**

a. Surface Water: [help]

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into. [help]

Not applicable as the proposed amendment is a non-project action not applicable to a specific parcel or building site.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. [help]

Not applicable as the proposed code amendment is a non-project action not applicable to a specific parcel or building site.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material. [help]

Not applicable as the proposed code amendment is a non-project action not applicable to a specific parcel or building site. No fill and/or dredge material is proposed.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. [help]

Not applicable as the proposed amendment is a non-project action not applicable to a specific parcel or building site.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. [help]

Not applicable as the proposed amendment is a non-project action not applicable to a specific parcel or building site.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge. [help]

Not applicable as the proposed amendment is a non-project action not applicable to a specific parcel or building site.

b. Ground Water:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site. .

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

2) Could waste materials enter ground or surface waters? If so, generally describe. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

4. **Plants** [help]

a. Check the types of vegetation found on the site: [help]

____deciduous tree: alder, maple, aspen, other

____evergreen tree: fir, cedar, pine, other

____shrubs

____grass

____pasture

____crop or grain

____ Orchards, vineyards or other permanent crops.

____ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other

____water plants: water lily, eelgrass, milfoil, other

____other types of vegetation

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

b. What kind and amount of vegetation will be removed or altered? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

c. List threatened and endangered species known to be on or near the site. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any: [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

e. List all noxious weeds and invasive species known to be on or near the site.

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

5. **Animals**

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. Examples include: [help]

birds: hawk, heron, eagle, songbirds, other:

mammals: deer, bear, elk, beaver, other:

fish: bass, salmon, trout, herring, shellfish, other _____

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site. A variety of birds and animals can be found throughout Anacortes.

b. List any threatened and endangered species known to be on or near the site. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site. Chinook salmon and various other species listed as threatened or endangered are found within Puget Sound.

c. Is the site part of a migration route? If so, explain. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

d. Proposed measures to preserve or enhance wildlife, if any: [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

e. List any invasive animal species known to be on or near the site.

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

6. **Energy and natural resources**

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any: [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

7. **Environmental health**

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

1) Describe any known or possible contamination at the site from present or past uses.

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

4) Describe special emergency services that might be required.

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

5) Proposed measures to reduce or control environmental health hazards, if any:

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

b. **Noise**

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

3) Proposed measures to reduce or control noise impacts, if any: [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

8. **Land and shoreline use**

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe. [help]

The proposed code amendment is non-project action not applicable to a specific parcel of building site.

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

c. Describe any structures on the site. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

d. Will any structures be demolished? If so, what? [help]

N/A. The proposed amendment is non-project action not applicable to a specific parcel or building site.

e. What is the current zoning classification of the site? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

f. What is the current comprehensive plan designation of the site? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

g. If applicable, what is the current shoreline master program designation of the site? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

h. Has any part of the site been classified as a critical area by the city or county? If so, specify. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

i. Approximately how many people would reside or work in the completed project? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

j. Approximately how many people would the completed project displace? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

k. Proposed measures to avoid or reduce displacement impacts, if any: [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

L. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

9. **Housing**

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

c. Proposed measures to reduce or control housing impacts, if any: [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

10. **Aesthetics**

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

b. What views in the immediate vicinity would be altered or obstructed? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

c. Proposed measures to reduce or control aesthetic impacts, if any: [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

11. **Light and glare**

a. What type of light or glare will the proposal produce? What time of day would it mainly occur? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

b. Could light or glare from the finished project be a safety hazard or interfere with views? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

c. What existing off-site sources of light or glare may affect your proposal? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

d. Proposed measures to reduce or control light and glare impacts, if any: [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

12. **Recreation**

a. What designated and informal recreational opportunities are in the immediate vicinity? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

b. Would the proposed project displace any existing recreational uses? If so, describe. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any: [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

13. **Historic and cultural preservation**

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

14. **Transportation**

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private). [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates? [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

h. Proposed measures to reduce or control transportation impacts, if any: [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

15. **Public services**

a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

b. Proposed measures to reduce or control direct impacts on public services, if any. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

16. **Utilities**

a. Circle utilities currently available at the site: [help]

electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other _____

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed. [help]

N/A. The proposed amendment is a non-project action not applicable to a specific parcel or building site.

C. SIGNATURE [HELP]

I certify (or declare) under penalty of perjury under laws of the State of Washington that the above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make a decision.

Signature: Kevin Cricchio

Name of signee **Kevin Cricchio, AICP**

Position and Agency/Organization **Associate Planner, City of Anacortes**

Date Submitted: **September 14, 2016**

Planning Commission Agenda Bill

Meeting Date: 10/12/2016 Agenda Item: Title 19

Subject: Title 19 Update

Staff Contact: Darcy Swetnam, Don Measamer

Approved for Submittal to Council by	
x	Laurie Gere, Mayor
	Steve Hoglund, Finance Director
x	Darcy Swetnam, City Attorney

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

Summary Statement: This discussion item is presented to introduce Planning Commission to suggested options for the creation and structure of new Title 19, a Unified Development Code.

Background:

In response to complex and confusing land use procedures, staff began the process of consolidating land use procedural rules into a new Title 19 some years ago. Former Planning Director Ryan Larsen was central to the prior efforts, but the process stalled when he left the City. Since that time, staff have been reviewing the prior work, identifying other areas of the development code that require improvement, and focusing the update process on those chapters that most need revisions.

The current strategy recommended by staff would combine all City development code into Title 19, with consistent definitions and procedural rules that apply to all Chapters. Additionally, by building a new Title, the City can rewrite certain Chapters and simply delete the previous sections from other Titles. This will allow an incremental approach to the updates based on priority. For example, state law requires updates to those sections of the Code regulating stormwater, critical areas, and shorelines. Updates to those Chapters should not be held up by the process of rewriting the entire development code.

One of the first areas to be incorporated is the City land use decision process. Staff proposes the creation of a matrix of decision levels, with all City decisions falling into one of four or five categories. Each category will have a clearly outlined procedure that is understandable for both the public and staff. This will simplify applications and capture efficiencies.

This area is identified as a priority because of the numerous examples of complicated and confusing procedures in the code. For example, the current code allows for

members of the public to appeal a Planning Commission recommendation of approval to Council of a land use project. This leads to hearings where Council sits as an appellate body reviewing the Planning Commission recommendation and then also hears the underlying recommendation separately but at the same hearing.

One of the big differences staff recommends is the elimination of the board of adjustment and city improvement board in favor of having variances decided by the Planning Commission and code enforcement appeals decided by a hearing examiner. The board of adjustment and city improvement board rarely meet and present additional procedural confusion and complication for the public.

Council members and members of the public have expressed concerns about a hearing examiner in the past, but staff's approach under the current plan is different. The City is one of the very few remaining jurisdictions in the state who do not use any form of hearing examiner services to decide appeals. Incorporating a hearing examiner for code enforcement will minimize City liability, free Council's time for policy work, and provide increased consistency.

The development of a new Title 19 will consolidate City procedures, provide clarity and consistency for the public, and allow the City to be more agile in future required Code updates. This will be a large project that will take time, but Council feedback on the framework will help guide staff's efforts.

Budget Impact	
Amount Budgeted	
Budget Account (BARS)	
Proposed Expenditure	
Budget Amendment Required?	
Revenue Source	

Proposed Contract	
Contractor	
Amount	
Start Date	
End Date	

Previous Council/Committee Action: This is a draft Title 19 for Planning Commission review and potential recommendation to City Council.

Competing Viewpoints Considered: Public comment is welcome.

Recommended Motion: No recommended motion at this time.

Alternative Actions: N/A

Attachments (listed in order presented): Draft Title 19

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. Applications submitted and deemed complete prior to _____ [and that have already received a public hearing] are to be processed under the code in effect prior to these amendments.

Commented [RW1]: Optional. Vesting does not apply to procedural provisions, and the new procedures may be more desirable to all parties.

Section 3. This ordinance takes effect January 1, 2017.

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.

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 [RW2]: Updated to match Washington State Superior Court Civil Rule 6.

Deleted: 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.¶

Chapter 2.42 Planning Commission

2.42.010 Created.

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

Commented [RW3]: 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.

2.42.040 Terms of office.

The terms of members 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.

Deleted: **<#>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.¶

Deleted: not city officers

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 AMC Title 19.

Deleted: Chapter 44 of the Sessions Laws of 1935

Deleted: , 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

2.42.060 Organization.

The commission will elect its own chair 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.

Deleted: man

2.42.070 Service without compensation—Quorum.

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

3.92 Parks and Recreation Impact Fees

AMC Chapter 3.92, Parks and Recreation Impact Fees, is repealed.

15.20 Building Permits

AMC Chapter 15.20, Building Permits, 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 Approval Criteria

A. *If the city council finds that the final plat meets the requirements in the preliminary plat approval conditions, the final plat will be approved.*

16.24 Modifications and Exceptions

AMC 16.24.020 Procedure, is repealed.

16.28 Recreational Vehicle Parks

AMC 16.28.100, Application procedure, is repealed.

16.40 Planned Unit Developments

AMC Chapter 16.40, Planned Unit Developments, is repealed.

Deleted: **Review Procedure**

Deleted: <#>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. ¶
The planning commission and city council shall at their public meetings consider the final plat application

Deleted: *<#>as set-out*

Deleted: *<#>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. ¶*

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.

17.08 Administration

AMC Chapter 17.08, Administration, is repealed.

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) are permitted uses in R1, R2, R3, R4, R4A, and R4B zones.
>
> 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.

17.62 Public Hearings

AMC Chapter 17.62, Public Hearings, is repealed.

17.75 Essential Public Facilities

AMC 17.75.04, Procedure, 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 36.70B.030 or says nothing.

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

Deleted: may be approved by the zoning administrator

Deleted: subject to the procedure set forth in [Section] 17.10.180

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

18.12 Land Clearing and Grading

AMC 18.12.140, Permit—City engineer's review and decision, is repealed.

AMC 18.12.150, Permit—Expiration, amendment, suspension and revocation, is repealed.

AMC 18.12.170, Appeals, is repealed.

New Title 19 Unified Development Code

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Chapter 19.02 General Provisions

19.02.010 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.

19.02.020 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 [RW10]: e.g state and federal

Commented [RW11]: e.g. tribe

19.02.030 Administration

A. The Director is responsible for administration of AMC Titles 16, 17, 18, and 19.

Commented [RW12]: Title 15 will no longer exist by the effective date of this Title.

B. Counter information. The Director may respond to inquiries regarding the applicability and interpretation of various code provisions prior to our 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 subject to appeal.

19.02.040 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, or in the case of an appeal, by the party filing the appeal.

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.

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 or

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.

19.02.080 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.

19.02.090 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 19.04 Definitions and Interpretation

19.04.020 Definitions.

Commented [RW13]: 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.

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

"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.

"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 listed among those classified in any given zone but permitted to locate only after review by the decision-making body, and the granting of a conditional use permit imposing such performance standards as will make the use compatible with other permitted uses in the same vicinity and zone and assure against imposing excessive demands upon public utilities and on surrounding properties. A permit will not be granted unless the proposed project complies with the applicable conditional use criteria and other City review requirements.

"Day" means calendar day, not business day, unless otherwise specified.

"Decision" means the written report of findings and conclusions issued by the decision-making body.

"Decision-making body" means that officer or body prescribed by this Title as having the authority to approve, approve with conditions, or deny a project permit.

"Department" means the Department of Community and Economic Development.

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

"Development permit" means _____

"Director" means the Director of the Department and/or his or her 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.

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

"Impact fee" means _____. Compare to "General Facilities Charge."

"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 [RW15]: 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.

"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.

"Variance" means a relaxation of the terms of the zoning ordinance. A variance will not be contrary to the public interest. A variance may be issued where there are conditions peculiar to the property and not the result of the actions of the applicant, and where a literal enforcement of this title would result in unnecessary and undue hardship. As used in this title, a variance is authorized for height, area, and size of structure or size of yards and open spaces or other dimensional characteristics. Establishment or expansion of a use otherwise prohibited may not be allowed by variance, nor may a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

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

19.04.040 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.

19.04.070 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.

Chapter 19.06 Adoption of International and Uniform Codes

Reserved.

Chapter 19.08 Legislative Actions

19.08.010 Purpose.

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

19.08.020 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.

19.08.030 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.

19.08.040 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.

19.08.050 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.

19.08.060 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.

19.08.070 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 and to the official newspaper of the County;

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.

19.08.080 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 County 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.

19.08.090 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.

19.08.100 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. Delaying action on the proposal 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.

19.08.110 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.

Chapter 19.10 Procedures

19.10.010 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.

19.10.020 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. _____
   4. _____

Commented [RW19]: RCW 36.70B.140 allows exemptions, but we may not find any others that should be included.

19.10.030 Types of Review

A. Decisions on applications are governed by five types of review processes, described and distinguished in this section. The five types of review are generally organized in ascending order of significance, amount of public process, and level of discretion exercised by the decision-maker, except for Type 5 review, which is prescribed by statute as a ministerial action of the City Council for final subdivision approval.

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 19.10.030-1 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 19.10.030-1. 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**	Type 5 **City Council Ministerial Actions**
Types of Applications	▪ Boundary line adjustments ▪ Building, mechanical, and plumbing permits ▪ Clearing and grading permits ▪ Extension of time for approval ▪ Impact fee decisions per AMC 19.16 ▪ Shoreline exemptions ▪ Stormwater Management Manual adjustments and exceptions ▪ Minor amendments to approved developments or permits	▪ Accessory dwelling units ▪ Administrative conditional use permits, including home occupation permits ▪ Level 1 variances ▪ Binding site plans ▪ SEPA procedural determinations ▪ Short subdivisions up to 4 lots	▪ Special use permits for towers or antennas ▪ Level 2 variances ▪ Short subdivisions of 5-9 lots	▪ Conditional use permits, except administrative CUPs ▪ Shoreline Substantial Development Permits ▪ Shoreline Conditional Use and Variance Permits ▪ Special use and reasonable use permits per AMC Chapter 17.70 ▪ Any other applications identified as "conditional uses"	▪ Essential Public Facilities, type 1 and 2 ▪ Final subdivisions ▪ Manufactured home subdivisions ▪ Preliminary long subdivision ▪ Site-specific rezone authorized by the comprehensive plan	▪ Final subdivision approval
Pre-Application Neighborhood Meeting	No	No	Yes	Yes	Yes	No
Pre-Application Conference	At discretion of Director	At discretion of Director	Yes	Yes	Yes	No
Notice of Application	No	Yes	Yes	Yes	Yes	No
Comment Period	None	14 days	30 days	30 days	30 days	None
Recommendation By	None	None	Director	Director	Planning Commission	None
Pre-Decision Open-Record Public Hearing	No	No	Yes, before Hearing Examiner	Yes, before Planning Commission	Yes, before Planning Commission	No
Decision By	Director	Director	Hearing Examiner	Planning Commission	City Council	City Council
Notice of Decision	No	Yes	Yes	Yes	Yes	Yes
Local Appeal To	Hearing Examiner	Hearing Examiner, then City Council	City Council	City Council	None	None
Appeal Hearing Type	Open-record	Open-record, then closed-record	Closed-record	Closed-record	Closed-record	None

Commented [RW21]: Plus $1mill threshold

Commented [RW22]: These will go away as Title 17 is cleaned up.

19.10.040 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.

19.10.110 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 19.10.030 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.

19.10.120 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 19.10.030 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.

19.10.130 Contents of applications

A. An application must:

1. be submitted on forms provided by the Department;
2. 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;
3. include fees per the adopted fee schedule.

B. Contents of applications.

1. All applications must include the information specified in any applicable code section as well as the application checklist provided by the Department.
2. _____
3. _____
4. _____

C. The applicant must apply for all permits identified in the pre-application meeting and required by law.

19.10.140 Complete applications

A. Determination of completeness.

1. A permit application is complete for the purposes of this section when it meets the requirements of AMC 19.10.130 Contents of applications.
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 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.

B. 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 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.

19.10.150 Notices—generally.

A. Applicability. This section applies whenever a Notice of Application, notice of public hearing, or Notice of Decision is required by this Chapter.

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.

19.10.150 Notice of Application.

A. When required. A Notice of Application is required when shown in AMC 19.10.030 Types of Review.

B. Contents. The Notice of Application must include:

Commented [RW23]: Per RCW 36.70B.110

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. 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;
5. the identification of other permits not included in the application, to the extent known by the City;
6. 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;
7. a statement of the public comment period, which lasts the number of days specified for the application type in AMC 19.10.030 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.
8. 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;
9. the date, time, place and type of hearing, if applicable and scheduled at the date of notice of the application;
10. 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;
11. 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);
12. 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.

D. 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.

19.10.170 Staff recommendation.

[describe findings of fact, conclusions of law, statement of process _____]

A. 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.

19.10.180 Hearings and Meetings

Commented [RW24]: The table below should be linked to the other table, and match up all terms

	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 outside the record	Yes	No	Yes	No
Standard of review	Compliance with code, etc	De novo	Clearly erroneous	Clearly erroneous
Burden of proof	Applicant	Applicant	Appellant	Appellant

Commented [RW25]: Fleshy flesh flesh

Commented [RW26]: explain

Role of staff: clearly indicate that they can participate, and how

Attorneys may represent any participation party, and others may as well (like growth board); but they use each others' time

The hearing body can set its rules of procedures and reasonable time limits for testimony

A. Public hearing. Before rendering a decision, the hearing body must hold an open-record public hearing on the application or appeal.

B. Closed record. The parties may submit arguments in writing or present oral arguments at the closed-record hearing. All arguments must be based on facts already in the record. No new facts may be admitted into the record.

C. Participation.

1. In an open-record pre-decision hearing, any interested party may participate.
2. In an open-record appeal hearing, only the applicant, any appellant, and any parties of record may participate.

D. Burden of proof.

1. In an open-record pre-decision hearing, the applicant has the burden of proving the application complies with the requirements of the Anacortes Municipal Code and other applicable law.
2. In an open-record appeal hearing, the appellant has the burden of proof.

E. Standard of review for appeal hearings. ____

F. Open record. ____

G. Public hearing. Before rendering a decision, the hearing body must hold an open-record public hearing on the application or appeal.

Commented [RW27]: all these paragraphs need to be cleaned up to reference the table

19.10.180 Public hearing. [move under types of hearings]

A. Notice. When a public hearing is required by AMC 19.10.030 Types of Review, the Department must provide a notice of public hearing.

1. Contents. The public notice must include:

Commented [RW28]: Compare this list to the notice of application list and make parallel

a. The application number;
b. Project summary/description of each project permit application;
c. The designation of the hearing body;
d. 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;
e. General project location, vicinity, address, and parcel number(s), if applicable;
f. 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;
g. 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;

h. A statement regarding the appeal process; and

i. The date when the staff report will be available and the place and times where it can be reviewed.

2. Continuations. 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.

19.10.____ Closed-record hearing.

Commented [RW30]: Fully describe.

A. Participation. Only the applicant, any appellants, and parties of record may participate in a closed-record hearing.

B. Burden of proof. The appellant in a closed-record appeal has the burden of demonstrating that the decision being appealed is clearly erroneous.

C. Standard of review. _____

D. Closed record. The parties may submit arguments in writing or present oral arguments at the closed-record hearing. All arguments must be based on facts already in the record. No new facts may be admitted into the record.

19.10.180 Decision.

A. Timing.

1. The final decision on an application for a development permit must be made within the time periods from determination of completeness listed in Table 19.10.180-1.

Type of Application	Time Period
Preliminary subdivisions and binding site plans	90 days
Final subdivisions	30 days
Eligible co-location and modification requests for personal wireless services facilities	60 days
All other development permits	120 days

2. Generally, the final decision on an application for a development permit must be made within 120 days from the determination of completeness.

a. Final decision on a preliminary subdivision or binding site plan must be made within 90 days from the dtermination of completeness.

3. The following time periods are excluded from the time limits:

a. Any time required to correct plans, perform studies, or provide additional information. Within 14 calendar days of receiving the requested additional information, the Director must determine whether the information is adequate to resume the project review.

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 extension of time mutually agreed upon by the City and the applicant.

f. Any time required to obtain any necessary variance.

g. Any time required for any remand to the hearing body.

h. Any time required for any administrative appeal of SEPA threshold determination, if applicable.

i. Any specific amount of additional time that the City determines is necessary for the processing of a specific complete project permit application.

4. 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 final 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.

19.10.190 Notice of Decision.

A. When required. When a final decision is made that requires a Notice of Decision per AMC 19.10.030 Types of Review, the Department must provide a Notice of Decision.

B. Timing. _____

C. 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.

19.10.200 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.

Commented [RW33]: The appellate body needs explicit authority to determine standing. Maybe this section should be rewritten with better language, e.g. "individualized injury"

B. Parties. The following are parties to any appeal:
   1. The Director;
   2. The applicant, if any;
   3. Any owner of the property subject to the application or _____;
   4. _____;

Commented [RW34]: There may not be an applicant, e.g. in code enforcement cases

C. 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.
D. Method of service. Appeals must be delivered to the Department 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.
E. 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.

F. Effect. The timely filing of an appeal will stay the decision until such time as the appeal is concluded or withdrawn.

G. Burden of Proof. The appellant will bear the burden to demonstrate that at least one of the grounds for administrative appeal as set forth in AMC _____ has occurred.

H. Standard of Review. The appeal body must determine whether there is substantial evidence in the administrative record to support an affirmative finding that one of the grounds for administrative appeal raised by the appellant has been met. The appeal body may affirm, modify, reverse, or remand the decision of the hearing body.

Commented [RW35]: I don't think this standard is complete.

I. Notice of Appeal Hearings. Notice of appeal hearings will be as follows:

1. Applicant
2. Property owner
3. Parties of record

Commented [RW36]: Review and make parallel

J. Closed-record hearing on appeal.

Commented [RW37]: Flesh out. Reference the requirements of the lcosed record hearing section.

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.

Commented [RW38]: Generalize and put in general provisions.

L. Decision. The appeal body must issue a written decision on the appeal supported by written findings and conclusions. The Director must mail notice of the appeal body's decision to the appellant(s), the applicant, and other parties of record. The notice will consist of the appeal body's decision identifying the case by number and appellants' name. The notice will also include a statement concerning any appeal rights for the appeal decision. Where applicable, the notice will comply with the official notice provisions of RCW 34.21C.075.

Commented [RW39]: Make parallel. Also need deadlines for issuing decisions

19.10.210 Remand.

In the event that the City Council determines that the public hearing record is insufficient or otherwise flawed, the Council may remand the matter back to the original decision-making body to correct the deficiencies. The Council must specify the items or issues to be considered and the time frame for the additional work. The original public hearing may be re-opened if necessary for the limited purpose of

addressing specific questions set forth by the Council. 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. The original decision-making body must affirm, modify, or reverse its original action based on the revised public record.

Commented [A40]: Make more general, and allow all decisionmakers to remand to lower levels

Look for other examples of remand language in other codes or in court rules

Should this be allowed ONLY in cases of appeal? Not recommendations?

19.10.190 Reconsideration.

[time limit for request.]

A party to a hearing before the Hearing Examiner may seek reconsideration only of a final decision by filing a written request on form provided by department for reconsideration at Planning and Development Services within 10 calendar days of the date of decision. The request must set forth the specific errors alleged. The Hearing Examiner will consider the request, without public comment or argument by the party filing the request. If the request is denied, the previous action will become final. If the request is granted, the Hearing Examiner may revise and reissue its decision or may call for argument in accordance with the procedures for closed record appeals. Reconsideration should be granted only when a material legal error has occurred or a material factual issue has been overlooked that would change the previous decision. A request for reconsideration is not required, however, prior to exercising any rights to appeal.

Commented [RW41]: Or there's a crazy condition that can't be achieved? Maybe not. Maybe factual issue overlooked covers it all

Commented [RW42]: Generalize to include council and PC; make it filed with Clerk, and use "Department"; time limit: 10 days; say only one

19.10.200 Exhaustion of administrative remedies.

A. Exhaustion of administrative remedies.

1. No further administrative appeals are available when the final appeal shown in AMC 19.10.030 Types of Review has been heard.

2. A motion for reconsideration is not required to exhaust administrative remedies.

19.10.300 Permit Revision and Amendment.

A. Minor amendments are those which may affect the precise dimensions or location of buildings, accessory structures and driveways, but do not result in:

1. Expansion by more than 10 percent of the amount approved in the review process;

2. Significantly more or different impact on the surrounding area than does the present development, as determined by the director. In determining impact, the Director must consider the scale of the proposed expansion or modification, and expected changes to traffic, noise, hours of operation, and parking;

3. An increase in the number of lots, dwelling units, or density; or

4. A decrease in the quality or amount of open space.

B. Proposed modifications which do not meet the above criteria are a major modification and require additional review and approval by the appropriate hearing body or decision-maker for only the change(s) proposed.

Deleted: <#>External Appeals.¶
Appeals from the final decision of the City Council, Planning Commission, or other City City Council or body, and for which all other appeals specifically authorized have been timely exhausted, shall be made to Skagit County superior court within 21 days of the date the decision or action became final, unless another time period is established by state law or local ordinance.¶
Appeals of a final decision for shoreline permits or the Department of Ecology shall be filed within 21 days of the date of filing of the final permit and shall be heard by the Shorelines Hearings City Council pursuant to the procedures and timelines of RCW 90.58.180.¶
Notice of the appeal and any other pleadings to be filed with the court shall be served on the City as required by law.¶

Deleted: shall

Administrative Approvals without Notice:

C. Decisions of the Director under this section will be final on the date issued.

Administrative Approvals Subject to Notice:

B.
Preliminary approvals under this section will become final subject to the following:

1. If no appeal is submitted, the preliminary approval becomes final at the expiration of the appeal period.

2. If a written notice of appeal is received, within the specified time period, the matter will be referred to the City Council for an open record public hearing.

19.10.310 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.

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.

19.10.320 Permit Expiration.

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

Type of Permit	Initial Permit Term	Number of Allowed Extensions	Length of Each Extension
Conditional Use Permit	5 years		1 year
Preliminary Plats, Short Plats, Binding Site Plans,	5 years to recording	See RCW _____	See RCW _____

Type of Permit	Initial Permit Term	Number of Allowed Extensions	Length of Each Extension
Boundary Line Adjustments			
Shoreline Exemption	1 year per SMP		
Shoreline Permits	2 years to commence construction; 5 years maximum. See WAC 173-27-090(4)	1	1 year
Reasonable Use Exception	5 years	1	1 year
Variance	5 years	1	1 year
Wetland Delineation Verifications	5 years	0	n/a
Special Use Permits	See applicable code section		
Clearing, grading, grubbing	1 year	1	6 months

B. Shortening Permit Term. The City may, when issuing a decision, require a shorter expiration period than that indicated in subsection A of this section 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-making body 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; provided, 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 Expired.

1. A permit under this chapter will expire if, on the date the permit expires, the project sponsor has not fulfilled the requirements of the applicable permit.

2. Exception. The initial permit term does not included the time during which a permit was not actually pursued by construction because pending litigation related to the permit made it reasonable to not pursue the permit.

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.

Chapter 19.12 Concurrency and Public Improvements

19.12.010

Reserved.

Commented [RW44]: Reserved for new concurrency chapter.

19.12.100 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 [RW45]: AMC 15.20.030.

19.12.120 Public Improvements—Requirement.

Commented [RW46]: From AMC Chapter 15.20.

A. Applicability.

1. 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 market value.

2. This section does not apply to any building permits in the residential medium and low density zones.

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 19.14 Impact Fees

19.16.010 Purpose.

A. New development in the City of Anacortes creates additional demand and need for public facilities and infrastructure.

B. New development should pay for the proportionate share of new public facilities and infrastructure needed to serve the new development.

C. Impact fees are an efficient and predictable method of collecting such funding.

D. The City Council adopts this Chapter to provide a system for assessment, collection, and administration of impact fees consistent with the authority and requirements of RCW Chapter 82.02.

19.16.020 Applicability.

A. This Chapter applies to impact fees, which are required for all building permits in the categories of development activity identified in the City's impact fee schedule.

B. Exemptions. The following are exempt from the payment of impact fees:

1. Replacement to a similar intensity of a residential structure or mobile home having been actively occupied for the three previous years with a new residential structure or mobile home at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure or the removal of the mobile home;

2. Alterations or expansion or enlargement or remodeling or rehabilitation or conversion of an existing dwelling unit or units where no additional units are created and the use is not changed;

3. The construction of accessory structures to a residential use that will not create additional impacts on public facilities;

4. Miscellaneous improvements, including, but not limited to, fences, walls, swimming pools, and signs;

5. Demolition or moving of a structure.

C. A building permit is exempt from impact fees if mitigation has been provided, in lieu of impact fees, as specified below prior to the date of the ordinance codified in this Chapter:

1. A developer and the City and the affected district have entered into a voluntary agreement for the payment of fees, dedication of land, or the construction of a public facility segment by the developer; or

2. A SEPA mitigation condition exists imposing the obligation of the payment of fees, dedication of land, or the construction of a public facility segment upon the developer on behalf of the district; or

3. A land division condition exists imposing the obligation of the payment of fees, dedication of land, or the construction of a public facility segment upon the developer on behalf of the district.

D. Per RCW 82.02.100, a building permit for a single-family home in which a residential fire sprinkler system is installed is exempt from the impact fee for fire, not including any proportionate share related to the delivery of emergency medical services.

E. The Director is authorized to determine, after consultation with any affected district, whether a particular development activity falls within an exemption identified in this Section, in any other Section, or under other applicable law. Determinations of the Director must be in writing.

19.16.030 Calculation, Assessment, and Deferral.

A. Impact fees are calculated at the time the building permit is issued at the rate then in effect. Applications do not vest to the impact fees in effect at the time of application.

B. Impact fees are due at the time the building permit is issued, except an applicant for a building permit for a single-family residence may defer payment pursuant to this Subsection.

1. Deferrals are limited to 20 building permits per applicant, as defined in RCW 82.02.050(3)(g)(i), per year.

2. The applicant must grant and record a deferred impact fee lien in favor of the City, on forms provided by the Department, concurrent with the Department's issuance of the building permit.

3. The deferral lasts 18 months or until final inspection, whichever is earlier.

4. The Department must withhold certification of final inspection until the applicant pays the impact fees in full.

C. When an impact fee is required, the City may also collect an administration fee, per the adopted fee schedule, to cover the cost of administration.

19.16.040 Partial Exemption for Low-Income Housing.

A. Impact fees for building permits for low-income housing may receive a discount of 80% per RCW 82.02.060.

B. Low-income housing means housing with a monthly housing expense that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States Department of Housing and Urban Development.

C. The discount must be conditioned on requiring the developer to record a covenant with the County Auditor that:

1. prohibits use of the property for any purpose other than for low-income housing;
2. addresses price restrictions and household income limits for the low-income housing;
3. provides that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion.

D. If the City collects impact fees on behalf of a school district, the school district must approve the discount.

19.16.050 Independent Fee Calculations.

A. If a district believes in good faith that none of the fee categories or fee amounts in the adopted impact fee schedule accurately describe or capture the impacts of a new development, the district may conduct independent fee calculations and submit such calculations to the Director. The Director, as part of a project permit review, may impose alternative fees on a specific development based on the calculations of the district, or may impose alternative fees based on the calculations of the Department. The alternative fees and the calculations must be set forth in writing and will be mailed to the feepayer.

B. If a feepayer opts not to have the impact fees determined according to the adopted impact fee schedule, then the feepayer must prepare and submit to the City and any affected district an independent fee calculation for the development activity for which final land division, or other development approval, or a building permit is sought. The documentation submitted must show the basis upon which the independent fee calculation was made. The City and any affected district will review the independent fee calculation and provide an analysis to the Director concerning whether the independent fee calculation should be accepted, rejected, or accepted in part. The Director, as part of a project permit review, may adopt, reject, or adopt in part the independent fee calculation based on the analysis prepared by the district, or may impose alternative fees based on the calculations of the Department, the feepayer's independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The fees or alternative fees and the calculations must be set forth in writing and will be mailed to the feepayer and to the district.

C. Any feepayer submitting an independent fee calculation will be required to pay the City a fee to cover the cost of reviewing the independent fee calculation. The fee will be $500, plus any additional staff time spent in the review and the cost of consultant services if the City deems these services to be necessary. The City will require the feepayer to post a cash deposit of $500 prior to initiating the review.

D. While there is a presumption that the calculations set forth in a district's capital facilities plan are valid, the Director will consider the documentation submitted by a feepayer and the analysis prepared by a district, but is not required to accept such documentation or analysis which the

Director reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the feepayer or the district to submit additional or different documentation for consideration. The Director is authorized to adjust the impact fees on a case-by-case basis based on the independent fee calculation, the specific characteristics of the development, and/or principles of fairness. The fees or alternative fees and the calculations must be set forth in writing and will be mailed to the feepayer and to the affected district.

19.16.060 Credits.

A. If a development subject to an impact fee is approved subject to a condition that the applicant construct a public facility that is identified in the City's or affected district's capital facilities plan and is acceptable to the City and any affected district, the development applicant is entitled to a credit for the actual cost of providing the facility against the impact fee for that type of public facility.

B. For each request for a credit or credits, once the City has determined that the dedication improvements and/or construction would be suitable for district purposes, the City must select an appraiser. The appraiser will be directed to determine the value of the dedication, improvements, or construction provided by the feepayer on a case-by-case basis.

C. The feepayer will pay for the cost of the appraisal or request that the cost of the appraisal be deducted from the credit which the Director may be providing to the feepayer, in the event that a credit is awarded.

D. After receiving the appraisal and after consultation with any affected district, the Director will provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, where applicable, the legal description of the donation, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the Director before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days will nullify the credit.

E. Any claim for credit must be made no later than 20 calendar days after the submission of an application for a building permit.

F. For each request for a credit for significant past tax payments made for particular public facility system improvements, the feepayer must submit receipts and a calculation of past tax payments earmarked for or proratable to the particular system improvements.

G. Determinations made by the Director pursuant to this Section will be subject to the appeals procedures set forth in SCC 14.30.070.

19.16.070 Refunds.

A. If the City or a district fails to expend or encumber the impact fees within the period established by statute, or where extraordinary or compelling reasons exist, within such other time periods established pursuant to SCC 14.30.100(5), the current owner of the property on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees will be considered expended or encumbered on a first-in, first-out basis.

B. The City, based on consultation with any affected district and the Skagit County Treasurer, will notify potential claimants by first-class mail deposited with the United States Postal Service at the last known address of such claimants. Fees are identified with land parcels; therefore, a potential claimant or claimant must be the owner of the property at the time refunds are initiated.

C. Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the Director within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later.

D. Any impact fees for which no application for a refund has been made within this one-year period will be retained and expended on a related type of public facility for which the fees were originally collected.

E. Refunds of impact fees under this Section will include any interest earned on the impact fees.

F. Per RCW 82.02.080(2), when the City seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered funds from any terminated component or components, including interest earned, will be refunded pursuant to this Section. Upon the finding that any or all fee requirements are to be terminated, the City will place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and will notify all potential claimants by first-class mail at the last known address of the claimants. All funds available for refund will be retained for a period of one year. At the end of one year, any remaining funds will be retained by a district, but must be expended for the appropriate facilities. This notice requirement will not apply if there are no unexpended or unencumbered balances within the account or accounts being terminated.

G. The City will also refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, when the developer does not proceed with the development activity and no impact has resulted; except that, if a district has expended or encumbered the impact fees in good faith prior to the application for a refund, the district can decline to provide the refund.

19.16.080 Appeals.

A. A feepayer may appeal the Director's decisions with respect to any of the following:

1. the amount or applicability of impact fees to a building permit;
2. the amount or availability of an exemption or a credit;
3. an independent fee calculation.

B. An appeal is ripe only after calculation and assessment of the impact fees.

C. A feepayer may pay the impact fees assessed per this Chapter under protest.

19.16.090 Adoption of Impact Fees

A. Per RCW 82.02.060, the City's impact fee schedule must be adopted by ordinance and must specify the service area for each category of development. Per RCW 82.02.090, the City may adopt impact fees for:

1. public streets and roads;
2. publicly owned parks, open space, and recreation facilities;
3. school facilities; and
4. fire protection facilities.

B. The City may collect impact fees on behalf of any district that has complied with the provisions of this subsection. Before the City may collect impact fees on behalf of a district:

1. The district must submit its capital facilities plan, impact fee schedule, and impact fee calculations;
2. The City must incorporate the district's capital facilities plan into the City's comprehensive plan;
3. The City must adopt the district's impact fee schedule by ordinance; and
4. The City and the district must enter into an interlocal agreement with the district consistent with this Section.

C. The interlocal agreement between the City and the district must include the following:

1. Procedures for the collection, accounting, and refunds of impact fees consistent with this Chapter;
2. A requirement for the district to use the impact fees and any interest earned in accordance with State law governing impact fees;
3. A requirement to provide an annual report to the City consistent with RCW 82.02.070;
4. A requirement for the district to indemnify the City against any claim for refunds or challenges to payment of the impact fees for that district.

5. The City's collection of an administration fee, pursuant to AMC _____, is in addition to any impact fees collected for a district. The City will not collect a district's own administration fees.

D. Existing Authority Unimpaired. Nothing in this Chapter precludes the City from requiring the feepayer or the proponent of a development activity to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, RCW Chapter 43.21C, or RCW Chapter 58.17, governing land divisions and subdivisions; provided, that the exercise of this authority must be consistent with RCW 43.21C.065 and 82.02.100.

19.16.100 Use of Impact Fees.

A. Impact fees:

1. Must be used for public facility improvements of the district that will reasonably benefit the new development; and

2. May not be imposed to make up for deficiencies in the district's facilities serving existing developments; and

3. Must not be used for maintenance or operation.

4. May be spent for improvements, including, but not limited to, facility planning, land acquisition, site improvements, necessary off-site improvements, construction, engineering, architectural, permitting, financing, and administrative expenses, applicable impact fees or mitigation costs, capital equipment pertaining to public facilities, and any other expenses which can be capitalized.

5. May also be used to recoup public facility improvement costs previously incurred to the extent that new growth and development will be served by the previously constructed improvements or incurred costs and provided the proposed impact fee otherwise meets the requirements of RCW 82.02.050 through 82.02.100.

B. In the event that bonds or similar debt instruments are or have been issued for the construction of public facility or system improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this Section and are used to serve the new development. Capital facilities plans using impact fees for the purpose of assisting in the provision of capital facilities of facility systems must clearly differentiate between funds used for new improvement and those funds used to correct existing deficiencies.

C. Impact fees must be expended or encumbered within the period identified in RCW 82.02.070, unless the City Council identifies in written findings extraordinary and compelling reason or reasons for holding the fees beyond the statutory period, after consultation with any affected district.

Chapter 19.16 Land Divisions

Reserved.

Chapter 19.18 Boundary Line Adjustments

Reserved.

Chapter 19.20 Zoning

Reserved.

Chapter 19.30 Project Design

Reserved.

Chapter 19.40 Community Design

Chapter 19.60 Uses

19.60.010 General Use Criteria

Reserved.

19.60.020 Conditional Use Criteria

Reserved.

19.60.030 Accessory Dwelling Units

Reserved.

19.60.040 Adult Concessions

Reserved.

19.60.050 Essential Public Facilities

Reserved.

19.60.055 Home Occupations

Commented [RW47]: need to find existing regs to incorporate here

Reserved.

19.60.060 Marijuana Producers, Processors, and Retailers

Reserved.

19.60.070 Recreational Vehicles

Reserved.

19.60.080 Schools

Reserved.

19.60.090 Telecommunications Facilities

Reserved.

Chapter 19.66 Non-Conforming Uses

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. It is the intent of the ordinance codified in this Chapter:

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 proper 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.

Chapter 19.68 Variances

19.15.010 Purpose.

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

19.15.020 Applicability.

A. Generally, variances are allowed to grant relief from dimensional standards (e.g., height, setback, size).

B. Variances are not allowed for any of the following:

1. allowable, conditionally permitted, or prohibited uses in each zone;
2. procedural or administrative provision of this Title;
3. any provision of this code which, by the express terms of that provision, is not subject to a variance;
4. any conditions of approval established during permit review;
5. the provisions of AMC Chapter 17.70 Critical Areas.

19.15.030 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-making body may attach thereto such 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.

D. 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.

E. 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.

Chapter 19.70 Critical Areas

Reserved.

Chapter 19.72 Shorelines

Reserved.

Chapter 19.76 Stormwater

Reserved.

Chapter 19.78 Clearing and Grading

Reserved.

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.