

ORDINANCE NO. 143

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, RELATING TO LAND USE AND ZONING, ADOPTING NEW ADMINISTRATIVE PROCEDURES FOR THE PROCESSING OF THE PROJECT PERMIT APPLICATIONS, AS REQUIRED BY REGULATORY REFORM ACT, CHAPTER 36.70B RCW, DESCRIBING GENERAL REQUIREMENTS FOR A COMPLETE APPLICATION; ALLOWING FOR OPTIONAL CONSOLIDATED PERMIT PROCESSING, DESCRIBING THE PROCESS FOR ISSUANCE OF A NOTICE OF APPLICATION, PROVIDING FOR A PRE-APPLICATION CONFERENCE, SETTING FORTH THE INITIAL STEPS IN THE DETERMINATION OF CONSISTENCY WITH THE DEVELOPMENT REGULATIONS AND SEPA, SETTING A TIME FRAME FOR THE ISSUANCE OF PROJECT PERMITS; DESCRIBING THE REQUIRED PUBLIC NOTICE PROCEDURES FOR A PUBLIC HEARING; ESTABLISHING A PROCESS FOR THE CONDUCT OF OPEN RECORD HEARINGS AND CLOSED RECORD DECISIONS AND APPEALS, DESCRIBING THE PROCESS FOR ISSUANCE OF A NOTICE OF DECISION, ADDING A NEW ADMINISTRATIVE CHAPTER TO THE WOODINVILLE MUNICIPAL CODE, IN ORDER TO IMPLEMENT CHAPTER 20A., (SUBDIVISION CODE) AND CHAPTER 21A. (INTERIM ZONING CODE) WMC.

WHEREAS, the Regulatory Reform Act (Chapter 36.70B RCW) requires that the City establish a permit review process which, among other things: (1) provides for the integrated and consolidated review and decision on two or more project permits relating to a proposed action; (2) combines the environmental review process, both procedural and substantive, with the procedure for the review of project permits; (3) provides for no more than one open record hearing and one closed record appeal on such permits, except for the appeal of a determination of significance; and (4) provides for the issuance of City's final decision within 120 days after submission of a complete application; and

WHEREAS, the Act also requires that the City adopt such permit review process by March 31, 1996, but provides that the time frames for permit processing shall apply only to project permit applications filed on or after April 1, 1996; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. A new Chapter is hereby added to the Woodinville Municipal Code, to read as follows:

CHAPTER 17.07
TYPES OF PROJECT PERMIT APPLICATIONS

17.07.010	Procedures for Processing Project Permits
17.07.020	Determination of Proper Procedure Type
17.07.030	Project Permit Application Framework
17.07.040	Joint Public Hearings
17.07.050	Legislative Decisions
17.07.060	Legislative Enactment's Not Restricted
17.07.070	Exemptions from Project Permit Application Processing
17.07.080	Administrative Interpretation
17.07.090	Definitions

17.07.010 Procedures for Processing Project Permits. For the purpose of project permit processing, all development permit applications shall be classified as one of the following: Type I, Type II, Type III or Type IV. Legislative decisions are Type V actions, and are addressed in 17.07.050. Exclusions from the requirements of project permit application processing are contained in Section 17.07.070.

17.07.020 Determination of Proper Procedure Type.

A. Determination by Director. The Director of the Community Development Department or his/her designee (hereinafter the "Director"), shall determine the proper procedure for all development applications. If there is a question as to the appropriate type of procedure, the Director shall resolve it in favor of the higher procedure type number.

B. Optional Consolidated Permit Processing.

1. An application that involves two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by the code. The applicant may determine whether the application shall be processed collectively or individually. If the application is processed under the individual procedure option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure.
2. SEPA review shall be conducted concurrently with development project review. The following are exempt from concurrent review:
 - a. Projects categorically exempt from SEPA;
 - b. Components of previously completed planned actions, to the extent permitted by law and consistent with the EIS for the planned action.

C. Decision-maker(s). Applications processed in accordance with subsection 17.07.020B which have the same highest numbered procedure but are assigned different hearing bodies shall be heard collectively by the highest decision-maker(s). The City Council is the highest, followed by the Hearing Examiner or Planning Commission, as applicable, and then the Director. Joint public hearings with other agencies shall be processed according to Section 17.07.040.

D. Hearings. Project permits are allowed only one record hearing and one closed record appeal hearing.

17.07.030 Project Permit Application Framework.

ACTION TYPE

PROCEDURE PROJECT PERMIT APPLICATIONS (TYPE I - IV) LEGISLATIVE					
	TYPE I	TYPE II	TYPE III	TYPE IV	TYPE V
Final Decision made by:	Director	Director	Hearing Examiner	City Council	City Council
Recommendation made by::	N/A	N/A	N/A	N/A	Planning Commission
Notice of Application:	No	Yes	Yes	No	No
Open Record Public Hearing:	No	Only if appealed, open record hearing before Hearing Examiner	Yes, before Hearing Examiner to render final decision	No	Yes, before Plng. Comm. to make recommendation to Council
Closed record appeal/final decision:	No	No	Only if appealed, then before Council, unless site specific zoning map amendments, then before Council on ordinance adoption	Yes, before Council to render final decision	Yes, or Council could hold its own hearing
Judicial Appeal:	Yes	Yes	Yes	Yes	Yes

DECISIONS

TYPE I	TYPE II	TYPE III	TYPE IV	TYPE V
<ul style="list-style-type: none"> • Boundary Line Adjustments • Home Occupation Permits • Home Industry Permits • Temporary Use Permits 	<ul style="list-style-type: none"> • Short Plats • Shoreline Development Permits • Binding Site Plans • Design Review • Minor Modification Subdivisions • Administrative Interpretation • Conditional Use Permit-Administrative Approval 	<ul style="list-style-type: none"> • Conditional Use Permits-Hearing Examiner Approval • Shoreline CUP's • Shoreline Variances • Site Specific Zoning Map Amendment • Subdivisions - Preliminary • Special Use Permits • Variances • Major Modifications Subdivisions 	<ul style="list-style-type: none"> • Subdivisions Final 	<ul style="list-style-type: none"> • Zoning Code Amendment • Development Regulation Amendment • Area Wide Zoning Map Amendment • Comprehensive Plan Amendments • Annexations • Right-of-Way Vacations

17.07.040 Joint Public Hearings.

A. Director's Decision to Hold Joint Hearing. The Director may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as: (1) the hearing is held within the city limits; and (2) the requirements of subsection C. below are met.

B. Applicant's Request for a Joint Hearing. The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this Title. In the alternative, the applicant may agree to a particular schedule if that additional time is needed in order to complete the hearings.

C. Prerequisites to Joint Public Hearing. A joint public hearing may be held with another local, state, regional, federal or other agency and the City, as long as:

the other agency is not expressly prohibited by statute from doing so;

sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;

the agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the City's hearing; and

the hearing is held within the geographic boundary of the City.

17.07.050 Legislative Decisions.

A. Decisions. The following decisions are legislative, and are not subject to the procedures in this chapter, unless otherwise specified:

1. Zoning Code Amendments;
2. Adoption of development regulations and amendments;
3. Area-wide Zoning Map Amendments to implement new City policies;
4. Adoption of the Comprehensive Plan and any Plan Amendments; and
5. Annexations

B. Planning Commission. The Planning Commission shall hold a public hearing and make recommendations to the City Council on the decisions listed in (A) above. The public hearing shall be held in accordance with the requirements of Chapter 17.15.

C. City Council. The City Council may consider the Planning Commission's recommendation in a public hearing held in accordance with the requirements of Chapter 17.15.

D. Public Notice. Notice of the public hearing or public meeting shall be provided to the public as set forth in Chapter 17.11.030.

E. Implementation. The City Council's decision shall become effective 5 days after publication of a passed ordinance.

17.07.060 Legislative Enactment's Not Restricted. Nothing in this chapter or the permit processing procedures shall limit the authority of the City Council to make changes to the City's Comprehensive Plan, as part of an annual revision process, or to make changes to the City's development regulations.

17.07.070 Exemptions from Project Permit Application Processing.

A. Whenever a permit or approval in the Woodinville Municipal Code has been designated as a Type I, II, III or IV permit, the procedures in this Title shall be followed in project permit processing. The following permits or approvals are, however, specifically excluded from the procedures set forth in this Title:

1. landmark designations;
2. street vacation;
3. street use permits.

B. Pursuant to RCW 36.70B.140(2), building permits, boundary line adjustments, other construction permits, or similar administrative approvals which are categorically exempt from environmental review under SEPA (Chapter 43.21C RCW) and the Title 14.04 (SEPA), or permits/approvals for which environmental review has been completed in connection with other project permits, are excluded from the following procedures:

1. determination of completeness WMC 17.09.030A;
2. notice of application WMC 17.09.040;
3. except as provided in RCW 36.70B.140, optional consolidated project permit review processing 17.07.020B(1);
4. joint public hearings WMC 17.07.040;
5. single report stating all the decisions and recommendations made as of the date of the report that do not require an open record hearing WMC 17.15.020C;
6. notice of decision WMC 17.09.060;
7. completion of project review within any applicable time periods (including the 120 day permit processing time) WMC 17.09.060A.

17.07.080 Administrative Interpretations Unless otherwise specified and except for other agencies with authority to implement specific provisions of this title, the Planning Director is delegated the authority to issue official interpretations of all development regulations.

17.07.090 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

A. Closed Record Appeal Hearing. An administrative appeal on the record following an open record hearing on a project permit application when the appeal is on the record with no new evidence or information allowed to be submitted and only appeal argument allowed.

B. Director. The Director of Planning and Community Development or his/her designees unless another department or agency is in charge of the project permit in which case it refers to the chief administrative officer of that department or agency.

C. Open Record Hearing. A hearing, conducted by a single hearing body or officer that creates the record through testimony and submission of evidence and information. An open record hearing may be held prior to a decision on a project permit to be known as an "open record predecision hearing". An open record hearing may be held on an appeal, to be known as an "open record appeal hearing", if no open record predecision hearing has been held on the project permit.

D. Project Permit or Project Permit Application. Any land use or environmental permit or license required from the City for a project action, including but not limited to subdivisions, conditional uses, shoreline substantial development permits, permits or approvals required by critical area ordinances, site-specific rezones authorized by the Comprehensive Plan or a subarea plan, but excluding the adoption or amendment of the Comprehensive Plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

E. Public Meeting. An informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to a decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on draft environmental Impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting shall be included in the City's project permit application file.

CHAPTER 17.09

TYPE I-IV PROJECT PERMIT APPLICATIONS

17.09.010	Pre-Application Conference.
17.09.020	Project Permit Application.
17.09.030	Submission and Acceptance of Application.
17.09.040	Notice of Application.
17.09.050	Referral and Review of Project Permit Applications.
17.09.060	Notice of Final Decision
17.09.070	Modification to Proposal

17.09.010 Pre-Application Conference.

A. Applications subject to review pursuant to Chapter 17.07 through 17.17 shall not be accepted by the Director unless the applicant has scheduled and attended a pre-application conference to acquaint the applicant with requirements for a complete application. Pre-application conferences for all other types of applications are optional.

B. The Director shall establish procedures, reasonable schedules, and staff participation for pre-application conferences.

C. The discussions at the conference shall not bind or prohibit the City's future application or enforcement of all applicable law since it is impractical for a pre-application conference to be an exhaustive review of all potential issues.

17.09.020 Project Permit Application.

A project permit application is complete when it meets the submittal requirements specified by the Director. An application shall consist of all materials required by the specific application submittal checklist, the applicable development regulations, and shall at a minimum, include the following general information:

- A. A completed project permit application form signed by the property owner;
- B. The applicant shall attest by written oath to the accuracy and completeness of all information submitted for an application;
- C. A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the affected property;
- D. A property and / or legal description of the site for all applications as required by the applicable development regulation;
- E. The application fee;
- F. Evidence of adequate water supply as required by RCW 19.27.097;
- G. Evidence of sewer availability;
- H. Any additional information as required on the specific submittal checklist for each specific application type.

The Director shall have the authority to prepare and revise submittal requirement checklists.

17.09.030 Submission and Acceptance of Application.

A. Determination of Completeness. Within twenty-eight (28) days after receiving a project permit application, the City shall send by certified mail or personally provide a written determination to the applicant which states either: (1) that the application is complete or (2) that the application is incomplete and what is necessary to make the application complete.

B. Identification of Other Agencies with Jurisdiction. To the extent known by the City, other agencies with jurisdiction over the project permit application shall be identified in the City's determination required by 17.09.030(A) above.

C. "Complete" Application/Additional Information. A project permit application is complete for purposes of this section when it meets the submission requirements in Section 17.09.020 above, as well as the submission requirements contained in the applicable development regulations. This determination of completeness shall be made when the application is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The City's determination of completeness shall not preclude the City from requesting additional information or studies either at the time of the notice of completeness or at some later time, if new information is required or where there are substantial changes in the proposed action.

D. Incomplete application procedure.

1. If the applicant receives a determination from the City that an application is not complete, the applicant shall have 90 days to submit the necessary information to the City. Within fourteen (14) days after an applicant has submitted the requested additional information, the City shall make the determination as described in 17.09.030(A) above, and notify the applicant in the same manner.
2. If the applicant either refuses in writing to submit additional information or does not submit the required information within the 90 day period, the application shall lapse.
3. In those situations where the application has lapsed because the applicant has failed to submit the required information within the necessary time period, the applicant may request a refund of the unexpended application fee by the City's determination of completeness.

E. City's Failure to Provide Determination of Completeness. A project permit application shall be deemed complete under this section if the City does not provide a written determination to the applicant that the application is incomplete as provided in 17.09.030(A) above.

F. Date of Acceptance of Application. When the project permit application is complete, the Director shall accept it and note the date of acceptance.

G. The applicant shall designate a single person or entity to receive determination and notices required by this Chapter. The single person or entity shall also be the designee for any contact regarding permit activity.

17.09.040 Notice of Application

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A notice of application shall be issued on all type II, III, and project permit applications in accordance with the provision of Chapter 17.11.010 and 17.11.020.

17.09.050 Referral and Review of Project Permit Applications. Within ten (10) days of accepting a complete application, the Director shall do the following:

A. Transmit a copy of the application, or appropriate parts of the application, to each affected agency and city departments for review and comment, including those responsible for determining compliance with state and federal requirements. The affected agencies and city departments shall have fifteen (15) days to comment. The referral agency or city department is presumed to have no comments if comments are not received within the specified time period. The Director shall grant an extension of time for comment only if the application involves unusual circumstances. Any extension shall only be for a maximum of three (3) additional days.

B. If a Type III procedure is required, notice and hearing shall be provided as set forth in Chapter 17.11.030 and 17.15.

17.09.060 Notice of Final Decision.

A. Time Limits.

1. The City shall issue a notice of final decision on a project permit application within one hundred twenty (120) days after the applicant is notified that the applications is complete.
2. The City shall exclude the following period from the 120 day requirement:
 - a. any period during which the applicant has been requested by the City to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the City notifies the applicant by certified mail for additional information until the date no more than 14 days after the applicant has submitted the requested information. The City shall determine if the information submitted is sufficient. If the information is not sufficient, this process will began again;
 - b. Any period during which an Environmental Impact Statement (EIS) is being prepared following a determination of significance;
 - c. Any period for administrative appeals of project permits, if an open record appeal hearing or a closed record appeal, or both, are allowed.

B. Final Notice Distribution. The City shall provide a notice of decision that also includes a statement of any SEPA threshold determination made and the procedures for administrative appeal. The notice shall be provided to the applicant and any person who, prior to the rendering of the decision, requested notice of decision or submitted substantive comments on the application.

C. The City shall provide a written notice to the applicant if the final decision is not issued within specified time limits. The written notice shall state the reasons why and the estimated date of decision.

D. Exemptions. The following project permits are exempt from the time limits established in this section:

1. An amendment to the comprehensive plan or development regulation;
2. Approval of a new fully contained community as provided in RCW 36.70A.350, master planned resort as provided in RCW 36.70A.360, or siting of an essential public facility as provided in RCW 36.70A.200;
3. Projects that have been substantially revised by the applicant pursuant to WMC 17.090.070;
4. Exemptions pursuant to 17.07.070A and B;
5. Any extension of time mutually agreed upon in writing by the applicant and the

City.

17.09.070 Substantial Revisions or Modifications to Proposal

A. A revision or modification to the content of an application before or after issuance of the permit, either voluntarily or to conform with applicable standards and requirements, shall be deemed a new application for the purpose of vesting when the revision or modification would result in a substantial increase in a project's impacts as determined by the Director. In reaching a decision on whether a revision is substantial, the Director may consider the relative and absolute magnitude of the revision; the environmental sensitivity of the site; any changes in location of significant elements of the project and their relationships to public facilities, surrounding lands and land uses; and the review cycle of the proposal.

B. Written notice of such determination of substantial revision or modification shall be provided to the applicant and all parties of record.

C. A determination that any revision or modification is substantial shall conform to the time periods set forth in WMC 17.09.060A of this Chapter. The review cycle for the revised project application shall begin with the date the revised project application is determined to be complete. The revised project application shall be subject to all laws, regulations, and standards in effect on the date of receipt of such complete substantial revision.

CHAPTER 17.11
PUBLIC NOTICE

- 17.11.010 Required Public Notice of Application.
- 17.11.020 Optional Public Notice
- 17.11.030 Notice of Public Hearing.
- 17.11.040 Notice Methods

17.11.010 Required Public Notice of Application.

A. Notice of Application for Type II and III project permits. Notice of Application for Type II and III project permits is required in accordance with this chapter. The City shall provide public notice of a project permit application by publication in the City's official newspaper and by posting as provided in 17.11.040.

1. Contents. The notice of application shall include:
 - a. the file number;
 - b. the name of the applicant;
 - c. the date of application, the date of the notice of completion for the application and the date of the notice of application;
 - d. a description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070;
 - e. the identification of other permits not included in the application, to the extent known by the City;
 - f. a site plan, if applicable;
 - g. 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;
 - h. a statement of the limits of the public comment period, which shall be not less than fourteen (14) days following the date of notice of application, and statements 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;
 - i. the date, time, place and type of hearing, if applicable and scheduled at the date of notice of the application;
 - j. 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 of consistency as provided in Chapter 17.13;
 - k. any other information determined appropriate by the City, such as the City's threshold determination, if complete at the time of issuance of the notice of application;
1. identification of the responsible City official.

2. Time Frame for Issuance of Notice of Application.
 - a. Within fourteen (14) days after the City has made a determination of completeness of a project permit application, the City shall issue a notice of application.
 - b. If any open record predecision hearing is required for the requested project permit(s), the notice of application shall be provided at least fifteen (15) days prior to the open record hearing.

3. Public Comment on the Notice of Application.
 - a. The public comment period for a Notice of Application shall be 14 days after notice issuance
 - b. All public comments received on the Notice of Application must be received in the Department of Community Development by 5:00 p.m. on the last day of the comment period. Comments may be mailed or personally delivered. Comments should be as specific as possible.

4. SEPA Threshold Determination Issuance and Notice of Application.
 - a. Except for a determination of significance, the City may not issue its threshold determination or issue a decision or recommendation on a project permit until the expiration of the public comment period on the notice of application.
 - b. If the City issues a determination of significance pursuant to WMC 14.04 concurrently with the notice of application, the notice of application shall be combined with the determination of significance and scoping notice. The determination of significance and scoping notice may be issued prior to the notice of application.

B. Shoreline Master Program (SMP) Permits.

1. Methods of Providing SMP Notice. Notice of the application of a permit under the preview of the City's Shoreline Master Program (SMP) shall be given by at least one of the following methods:

- a. mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least 500 feet of the boundary of the property upon which the substantial development is proposed;
- b. posting of the notice in a conspicuous manner on the property upon which the project is to be constructed pursuant to WMC 17.11.040A; or
- c. any other manner deemed appropriate by the City to accomplish the objectives of reasonable notice to adjacent landowners and the public.

2. Content of SMP Notice. The notices shall include:

- a. a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application within a reasonable time after issuance of the decision, may submit the comments or requests for decisions to the City within 30 days of the last date the notice is to be published pursuant to this subsection. The City shall forward, in a timely manner following issuance of the decision, a copy of the decision to each person who submits a request for the decision.
- b. Notice of the hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.
- c. The public comment period shall be thirty days. The notice shall state the manner in which the public may obtain a copy of the City's decision on the application no later than two (2) days following its issuance.

C. SEPA Exempt Projects. A notice of application shall not be required for project permits that are categorically exempt under SEPA, unless a public comment period or an open-record predecision hearing is required.

17.11.020 Optional Public Notice. As optional methods of providing public notice of any project permits, the City may:

- A. Notify the public or private groups with known interest in a certain proposal or in the type of proposal being considered;
- B. Notifying the news media;
- C. Placing notices in appropriate regional or neighborhood newspapers or trade journals;
- D. Publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas;

The City's failure to provide the optional notice as described in this subsection shall not be grounds for invalidation of any permit decision.

17.11.030 Notice of Public Hearing.

A. Content of Notice of Public Hearing for all Types of Applications. The notice given of a public hearing required in this chapter shall contain:

1. the name and address of the applicant or the applicant's representative;
2. description of the affected property, which may be in the form of either a vicinity location or written description, other than a legal description;
3. the date, time and place of the hearing;
4. a description of the subject property reasonable sufficient to inform the public of its location, including but not limited to the use of a map or postal address and a subdivision lot and block designation.

5. the nature of the proposed use of development;
6. a statement that all interested persons may appear and provide testimony;
7. the sections of the code that are pertinent to the hearing procedure;
8. when information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be admitted;
9. the name of a local government representative to contact and the telephone number where additional information may be obtained;
10. that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at the City's cost;
11. that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and copies will be provided at the City's cost;

B. Mailed Notice. Mailed notice of the public hearing shall be provided as follows:

1. Type I, Type II, and Type IV Actions. No public notice is required because no public hearing is held, except on an appeal of a Type II action.
2. Type III Actions. The notice of public hearing shall be mailed to:
 - a. the applicant;
 - b. all owners of property within 500 feet of the subject property;
 - c. any person who submits written or oral comments on an application.
(See additional requirements in Section 17.11.010(3) above for SMP applications.)
3. Type III Preliminary Plat Actions. In addition to the notice for Type III actions above for preliminary plats, additional notice shall be provided as follows:
 - a. Notice of the filing of a preliminary plat adjacent to or within one mile of the municipal boundaries of a city or town, or which contemplates the use of any city or town utilities shall be given to the appropriate city or town authorities.
 - b. Notice of the filing of a preliminary plat of a proposed subdivisions located in a city or town and adjoining the municipal boundaries thereof shall be given to the appropriate county officials.
 - c. Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport shall be given to the secretary of transportation, who must respond within 15 days of such notice.
 - d. Special notice of the hearing shall be given to adjacent landowners by any other reasonable method the City deems necessary. Adjacent landowners are the owners of real property, as shown by the records of the county assessor, located within 500 feet of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, notice required by section WMC 17.11.040C shall be given to owners of real property located within 500 feet of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided.

C. Type V Actions. For Type V Legislative actions, the City shall publish notice as described in Section 17.11.030(D)(2) below.

D. General Procedure for Mailed Notice of Public Hearing.

1. The records of the King County or Snohomish County Assessor's Office shall be used for determining the property owner of record. Addresses for a mailed notice required by this code shall be obtained from the applicable county's real property tax records. The Director shall issue a sworn certificate of mailing to all persons entitled to notice under this chapter. The Director may provide notice to other persons that those required to receive notice under the code.
2. All public notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first.

E. Procedure for Posted or Published Notice of Public Hearing.

1. Posted notice of the public hearing is required for all Type III and IV project permit applications. The posted notice shall be posted as required by Section 17.11.040(A)(1).
2. Published notice is required for all Type III, IV and V procedures. The published notice shall be published in the City's official newspaper.

F. Time and Cost of Notice of Public Hearing.

1. Notice shall be mailed, posted and first published not less than fifteen (15) days prior to the hearing date. Any posted notice shall be removed by the applicant within fifteen (15) days following the public hearing.
2. All costs associated with the public notice shall be borne by the applicant.

G. Notice - Exception to Public Hearing Notice Requirements. If testimony cannot be completed prior to adjournment on the date set for a hearing, the presiding official shall:

1. Announce prior to adjournment the time and place said hearing will be continued;
or
2. Provide mailed notice for a continued hearing to all parties of record, when a new time and place is determined.

17.11.040 Notice Methods.

A. Posting. Posting of the property for site specific proposals shall consist of one or more notice boards as follows:

1. A single notice board shall be placed by the applicant;
 - a. At the midpoint of the site street frontage or as otherwise directed by the City for maximum visibility;
 - b. Five (5) feet inside the street property line, except when the board is structurally attached to an existing building, provided that no notice board shall be placed more than five feet from the street property without approval of the Department;
 - c. So that the top of the notice board is between seven to nine feet above grade; and
 - d. Where it is completely visible to pedestrians.

2. Additional notice boards may be required when:
 - a. The site does not abut a public road;
 - b. A large site abuts more than one public road; or
 - c. The Director determines that additional notice boards are necessary to provide adequate public notice.

3. Notice boards shall be:
 - a. Maintained in good condition by the applicant during the notice period;
 - b. In place at least fifteen (15) days prior to the date of hearing, or at least 15 days prior to the end of any required comment period;
 - c. Removed within fifteen (15) days after the end of the notice period.

4. Removal of the notice board prior to the end of the notice period may be cause for discontinuance of the Department review until the notice board is replaced and remains in place for the specified time period.

5. An affidavit of posting shall be submitted to the Director by the applicant prior to the hearing or final comment date. If the affidavits are not filed as required, any scheduled hearing or date by which the public may comment on the application, will be postponed in order to allow compliance with this notice requirement.

6. Notice boards shall be constructed and installed in accordance with specifications promulgated by the Department.

B. Published Notice. Published notice shall include at least the project location, description, type of permit(s) required, comment period dates, and location where the complete application may be reviewed. Notice of a proposed action shall be published by the City at least 15 days

prior to the public hearing or the end of any required comment period in the official City newspaper or another newspaper of general circulation in the affected area.

C. Notice - Mailed Notice. Mailed notice for proposed action shall:

1. Be sent by the Department by first class mail to owners of property in an area within 500 feet of the site, and to the extent possible to tenants or residents living within 500 feet of the site, provided such area shall be expanded as necessary to send mailed notice to at least 20 different property owners, and tenants or residents.
2. Be considered supplementary to posted or published notice.
3. Be deemed satisfactory despite the failure of one or more owners, tenants and residents to receive mailed notice.

CHAPTER 17.13

CONSISTENCY WITH DEVELOPMENT REGULATIONS AND SEPA

- 17.13.010 Determination of Consistency
- 17.13.020 Initial SEPA Analysis
- 17.13.030 Categorically Exempt and Planned Actions

17.13.010 Determination of Consistency.

A. Purpose. When the City receives a project permit application, consistency between the proposed project and the applicable regulations and comprehensive plan should be determined through the process in this chapter and the City's adopted SEPA ordinance Chapter 14.04 WMC.

B. Consistency. During project permit application review, the City shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project. In the absence of applicable development regulations, the City shall determine whether the items listed in this subsection are defined in the City's adopted comprehensive plan. This determination of consistency shall include the following:

1. the type of land use permitted at the site, including uses that may be allowed under certain circumstances, if the criteria for their approval have been satisfied;
2. the level of development, such as units per acre, density of residential development in urban growth areas, or other measures of density; and
3. availability and adequacy of infrastructure and public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by chapter 36.70A RCW; and
4. character of the development, such as development standards.

17.13.020 Initial SEPA Analysis.

A. The City shall also review the project permit application under the requirements of the State Environmental Policy Act ("SEPA"), Chapter 43.21C RCW, the SEPA Rules, Chapter 197-11 WAC, and the City Environmental Policy Ordinance, Chapter 14.04 of the Woodinville Municipal Code, and shall:

1. determine whether the applicable regulations require studies that adequately analyze all of the project permit application's specific probable adverse environmental impacts;
2. determine if the applicable regulations require measures that adequately address such environmental impacts;
3. determine whether additional studies are required and/or whether the project permit application should be conditioned with additional mitigation measures;

4. provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level.

B. In its review of a project permit application, the City may determine that the requirements for environmental analysis, protection and mitigation measures in the applicable development regulations, comprehensive plan and/or in other applicable local, state or federal laws provide adequate analysis of and mitigation for the specific adverse environmental impacts of the application.

C. If the City bases or conditions its approval of the project permit application on compliance with the requirements or mitigation measures described in subsection A of this section, the city shall not impose additional mitigation under SEPA during project review.

D. A comprehensive plan, development regulation or other applicable local, state or federal law provides adequate analysis of and mitigation for the specific adverse environmental impacts of an application when:

1. the impacts have been avoided or otherwise mitigated; or
2. the City has designated as acceptable certain levels of service, land use designations, development standards or other land use planning required or allowed by chapter 36.70A RCW.

E. In its decision whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the City shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the City shall base or condition its project approval on compliance with these other existing rules or laws.

F. Nothing in this section limits the authority of the City in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by chapter 43.21C RCW.

G. The City shall also review the application under chapter 14.04, the City Environmental Policy Ordinance.

17.13.030 Categorically Exempt and Planned Actions.

A. Categorically Exempt. Actions categorically exempt under chapter 43.21C.110(1)(a) RCW do not require environmental review or the preparation of an environmental impact statement. An action that is categorically exempt under the rules adopted by the Department of Ecology (Chapter 197-11 WAC) may not be conditioned or denied under SEPA.

B. Planned Actions.

1. A Planned Action does not require a threshold determination or the preparation of an environmental impact statement under SEPA, but is subject to environmental review and mitigation under SEPA.
2. A "Planned Action" means one or more types of project action that:
 - a. are designated planned actions by an ordinance or resolution adopted by the City;
 - b. have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with:
 - i. the Comprehensive Plan or subarea plan adopted under chapter 36.70A RCW, of
 - ii. a fully contained community, a master planned resort, a mater planned development or a phased project;
 - c. are subsequent or implementing projects for the proposals listed in 2(b.) of this subsection;
 - d. are located within an urban growth area, as defined in RCW 36.70A.030;
 - e. are not essential public facilities, as defined in RCW 36.70A.200;
 - f. are consistent with the City's comprehensive plan adopted under chapter 36.70A RCW.

C. Limitations on Planned Actions. The City shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the City, and may limit a planned action to a time period identified in the environmental impact statement or in the ordinance or resolution designating the planned action under RCW 36.70A.040.

D. Limitations on SEPA Review. During project review, the City shall not reexamine alternatives to or hear appeals on the items identified in 17.13.010(B), except for issues of code interpretation. Project review shall be used to identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage swales, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts.

**CHAPTER 17.15
OPEN RECORD PUBLIC HEARINGS**

17.15.010	General
17.15.020	Responsibility of Director for Hearing
17.15.030	Conflict of Interest
17.15.040	Ex Parte Communications
17.15.050	Disqualification
17.15.060	Burden of Proof
17.15.070	Order of Proceedings
17.15.080	Findings and Notice of Decision
17.15.090	Record of Proceedings

17.15.010 General.

Public hearings on all Type II, III and V project permit applications as defined in WMC 17.07.030, shall be conducted in accordance with this chapter.

17.15.020 Responsibility of Director of Community Development and/or his/her designees for Hearing.

The Director shall:

- A. Schedule an application for review and public hearing.
- B. Give notice.

C. Prepare the staff report on the application, which shall be a single report stating all of the decisions made as of the date of the report, including recommendations on project permits in the consolidated permit process that do not require an open record predecision hearing. The report shall state any mitigation required or proposed under the development regulations or the City's authority under SEPA. If the threshold determination other than a determination of significance has not been issued previously by the City, the report shall include or append this determination. In the case of a Type I or II project permit application, this report may be the permit.

D. Prepare the Notice of Decision, if required by the Hearing Body and/or mail a copy of the Notice of Decision to those required by this code to receive such decision.

17.15.030 Conflict of Interest. Ethics. Open Public Meetings. Appearance of Fairness.

The Hearing Body shall be subject to the code of ethics (RCW 35A.42.020), prohibitions on conflict of interest (RCW 35A.42.020 and Chapter 42.23 RCW) open public meetings (Chapter 42.30 RCW), and appearance of fairness (Chapter 42.36 RCW) as the same now exist or may hereafter be amended.

17.15.040 Ex Parte Communications.

A. No member of the Hearing Body may communicate, directly or indirectly, regarding any issue in a proceeding before him or her, other than to participate in communications necessary to procedural aspects of maintaining an orderly process, unless he or she provides notice and opportunity for all parties to participate; EXCEPT as provided in this section;

1. the Hearing Body may receive advice from legal counsel;
2. the Hearing Body may communicate with staff members (except where the proceeding relates to a code enforcement investigation or prosecution.)
3. If, before serving as the Hearing Body in a quasi-judicial proceeding, any member of the Hearing Body receives an ex parte communication of a type that could not properly be received while serving, the member of the hearing body, promptly after starting to serve, shall disclose the communication as described in 17.15.004(C) below.

B. If the Hearing Body receives an ex parte communication in violation of this section, he or she shall place on the record:

1. all written communications received;
2. all written responses to the communication;
3. state the substance of all oral communications received, and all responses made;
4. the identity of each person from whom the examiner received any ex parte communications.

The Hearing Body shall advise all parties that these matters have been placed on the record. Upon request made within ten days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a rebuttal statement on the record.

17.15.050 Disqualification.

A. A member of the Hearing Body who is disqualified shall not be counted for purposes of forming a quorum. Any member who is disqualified may do so only by making full disclosure to the audience, abstaining from voting on the proposal, vacating the seat on the Hearing Body and physically leaving the hearing.

B. If all members of the Hearing Body are disqualified, all members present after stating their reasons for disqualification shall be requalified and shall proceed to resolve the issues.

C. Except for Type V actions, a member absent during the presentation of evidence in a hearing may not participate in the deliberations or decision unless the member has reviewed the evidence received.

17.15.060 Burden and Nature of Proof.

Except for Type V actions, the burden of proof is on the proponent. The project permit application must be supported by proof that it conforms to the applicable elements of the City's development regulations, Comprehensive Plan and that any significant adverse environmental impacts have been adequately addressed.

17.15.070 Order of Proceedings.

A. The order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.

1. Before receiving information on the issue, the following shall be determined.
 - a. any objections on jurisdictional grounds shall be noted on the record and if there is objection, the Hearing Body has the discretion to proceed or terminate.
 - b. any abstentions or disqualification's shall be determined.
2. The presiding officer may take official notice of known information related to the issue, such as:
 - a. a provision of any ordinance, resolution, rule, officially adopted development standard or state law;
 - b. other public records and facts judicially noticeable by law.
3. Matters officially noticed need not be established by evidence and be considered by the Hearing Body in its determination. Parties requesting notice shall do so on the record. However, the Hearing Body may take notice of matters listed in subsection (2) of this section if stated for the record. Any matter given official notice may be rebutted.
4. The Hearing Body may view the area in dispute with or without notification to the parties, but shall place the time, manner and circumstances of such view on the record.
5. Information shall be received from the staff and from proponents and opponents. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.
6. When the presiding officer has closed the public hearing portion of the hearing, the Hearing Body shall openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided.

17.15.080 Decision and Notice of Decision.

A. Following the hearing procedure described in Section 17.15.070, the Hearing Body shall approve, conditionally approve, or deny the application. If the hearing is an appeal, the hearing body shall affirm, reverse or remand the decision that is on appeal.

B. The Hearing Body's written decision shall issue within ten (10) working days after the hearing on the project permit application. The Notice of Final Decision shall issue within one hundred twenty (120) days after the City notifies the applicant that the application is complete. The time frames set forth in this Section and Section 17.15.090 shall apply to project permit applications filed on or after April 1, 1996.

C. The City shall provide a Notice of Decision that also includes a statement of any threshold determination made under SEPA (Chapter 43.21C RCW) and the procedures for administrative appeal, if any. For Type II, III and IV project permits, the Notice of Decision on the issued permit shall contain the requirements set forth in Section 17.13.020(A).

D. The Notice of Decision shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.

E. The Notice of Decision shall be provided to the public as set forth in Section 17.11.030.

F. If the City is unable to issue its final decision on a project permit application within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the Notice of Decision.

17.15.090 Issuance of Notice of Final Decision.

A. The time periods for issuing a final decision are subject to WMC 17.09.060.

B. Administrative appeals of project permits, if an open record appeal hearing or a closed record appeal shall be processed within the following time periods:

1. ninety (90) days for an open record appeal hearing; and
2. sixty (60) days for a closed record appeal.

The parties may agree to extend these time periods.

**CHAPTER 17.17
CLOSED RECORD DECISIONS
AND APPEALS**

17.17.010	Appeals of Administrative Decisions
17.17.020	Consolidated Appeals
17.17.030	Standing to Initiate Administrative Appeal
17.17.040	Closed Record Decisions and Appeals
17.17.050	Procedure for Closed Record Decisions and Appeals
17.17.060	Judicial Appeals

17.17.010 Appeals of Decisions. Project permit applications shall be appealable as provided in the framework in Section 17.07.030.

17.17.020 Consolidated Appeals.

A. All appeals of project permit application decisions, other than an appeal of Determination of Significance ("DS"), shall be considered together in a consolidated appeal.

B. Appeals of environmental determinations under SEPA shall proceed as provided in WMC 14.04.260.

17.17.030 Standing to Initiate Administrative Appeal.

A. Limited to Parties of Record. Only parties of record may initiate an administrative appeal of a Type II, III or IV decision on a project permit application.

B. Definition. The term "parties of record" for the purposes of this chapter, shall mean:

1. the applicant
2. any person who testified at the open record public hearing on the application and/or;
3. any person who submitted written comments concerning the application at the open record public hearing excluding person's who have only signed petitions or mechanically produced form letters.

17.17.040 Closed Record Decisions and Appeals.

A. Type II, III or IV project decisions or recommendation. Appeals of the Hearing Body's decision or recommendation on a Type II, III or IV project permit application shall be governed by the following:

1. Standing. Only parties of record have standing to appeal the Hearing Body's decision.
2. Time to File. An appeal of the Hearing Body's decision must be filed within fourteen (14) calendar days following issuance of the Hearing Body's written decision. Appeals and the appeal fee may be delivered to the Planning Department by mail or personal delivery before 5:00 p.m. on the last business day of the appeal period.

3. Computation of Time. For the purposes of computing the time for filing an appeal, the day the Hearing Body's decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050 or by the City's ordinances as a legal holiday, then it also is excluded and the filing must be completed on the next business day.
4. Content of Appeal. Appeals shall be in writing, be accompanied by an appeal fee, and contain the following information:
 - a. appellant's name, address and phone number;
 - b. appellant's statement describing his or her standing to appeal;
 - c. identification of the application which is the subject of the appeal;
 - d. appellant's statement of grounds for appeal and the facts upon which the appeal is based;
 - e. the relief sought, including the specific nature and extent;
 - f. a statement that the appellant has read the appeal and believes the contents to be true, following by the appellant's signature.
5. Effect. The timely filing of an appeal shall stay the effective date of the Hearing Body's decision until such time as the appeal is adjudicated by the Council or withdrawn.
6. Notice of Appeal. The Director shall provide public notice of the appeal as provided in Section 17.11.030(B)(2)(a) and 17.11.030(B)(2)(c).

17.17.050 Procedure for Closed Record Decision/Appeal.

A. The following subsections of this Title shall apply to a Closed Record Decision/Appeal hearing: 17.15.030; 17.15.040; 17.15.050; 17.15.060; 17.15.070(A)(1); 17.15.070(A)(2), 17.15.070(A)(3); 17.15.070(A)(4); 17.15.070(A)(6); and 17.15.080.

B. The closed record appeal/decision hearing shall be on the record before the Hearing Body, and no new evidence may be presented.

17.17.060 Judicial Appeals.

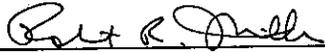
A. The City's final decision on an application may be appealed by a party of record with standing to file a land use petition in King County Court. Such petition must be filed within twenty-one (21) days of issuance of the decision, as provided in Chapter 36.70C RCW.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title. However, the procedures and time frames for issuance of permits and/or approvals as set forth in this ordinance shall apply only to project permit applications filed on or after April 1, 1996.

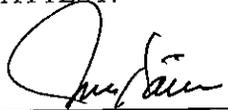
PASSED by the Council of the City of Woodinville, this 28th day of March, 1996.

APPROVED:



Robert R. Miller, Mayor

ATTEST:



James Katica, City Clerk

APPROVED AS TO FORM:



Wayne Tanaka, City Attorney

Filed with City Clerk: 3/28/96
Passed by City Council: 3/28/96
Date Published: 4/1/96
Date Effective: 4/6/96