

**CITY OF SNOHOMISH
Snohomish, Washington**

ORDINANCE 1803

AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON, ADDING A NEW TITLE TO THE CITY OF SNOHOMISH MUNICIPAL CODE, TITLE 14, DEVELOPMENT CODE ADMINISTRATION, TO IMPLEMENT REGULATORY REFORM.

THE CITY COUNCIL OF THE CITY OF SNOHOMISH, DO ORDAIN AS FOLLOWS:

WHEREAS, the State of Washington, through RCW 36.70B, requires that local governments combine the environmental review and procedural review process for review of project permits and provides for no more than one open record hearing and one closed record appeal; and

WHEREAS, as a local government planning under the State Growth Management Act, RCW 36.70B also requires that the City determine the completeness of an application, provide public notice of application, provide a notice of decision, and complete project review within 120 days after a completed application is received; and

WHEREAS, the City Council is committed to providing a clear and responsive permitting process;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SNOHOMISH, WASHINGTON DO HEREBY ORDAIN AS FOLLOWS:

TITLE 14

DEVELOPMENT CODE ADMINISTRATION

Chapters:

- 14.01 Introduction
- 14.03 Administration
- 14.05 Consolidated Application Process
- 14.07 Public Notice Requirements
- 14.09 Review and Approval Process
- 14.11 Appeals
- 14.13 Reserved
- 14.15 Community Development Plan

CHAPTER 14.01

INTRODUCTION

Sections:

14.01.010	Intent
14.01.020	Definitions

The purpose of this title is to combine and consolidate the application, review, and approval processes for land development in the City of Snohomish in a manner that is clear, concise, and understandable and is consistent with Chapter 36.70B, RCW. It is further intended to comply with state law for combining and expediting development review and integrating environmental review and land use development plans. Final decisions on development proposals shall be made within 120 days of the date of the Letter of Completeness for all applications subject to this title, except as provided in Section 14.09.070, Snohomish Municipal Code.

14.01.020 Definitions.

The following definitions shall apply to Snohomish Municipal Code, Titles 14 through 22; other definitions may be found in individual titles. For the purposes of administering this chapter, if any of these definitions conflict with those of other provisions of the Snohomish Municipal Code, the definitions of this chapter shall control.

Adjacent: Properties that are abutting or separated only by public right-of-way.

Aggrieved Party of Record: An "Aggrieved Party of Record" shall mean those persons who meet both the definition of an Aggrieved Person and a Party of Record.

Aggrieved Person: A person whose proprietary, pecuniary or personal rights would be substantially affected by a particular action.

Closed Record Appeal: An appeal to a hearing body following an open record hearing and issuance of a final decision. The appeal is on the record, no additional evidence or information is submitted, and only appeal argument is allowed.

Community Development Plan: The Snohomish Community Development Plan adopted in 1995, as amended.

Community Development Plan Amendment: An amendment or change to the text or maps of the Community Development Plan.

Critical Areas: Areas of environmental sensitivity, which include the following areas and ecosystems: a) wetlands; b) fish and wildlife habitat; c) flood plains; and d) geologically hazardous areas.

Date of Decision: The date the final decision is issued.

Development: Any land use permit or action regulated by Titles 14 - 22, SMC, including but not limited to subdivisions, binding site plans, rezones, conditional use permits, building permits subject to SEPA, and variances.

Development Code: Snohomish Municipal Code, Titles 14 - 22.

Effective Date: The date a final decision becomes effective, which is when the last appeal period ends without an appeal being filed.

Final Decision: Any decision by a hearing body that is not appealed.

Party of Record: Shall mean for each application/appeal:

1. The applicant/appellant;
2. All persons who testified at the public hearing;
3. All persons who individually submitted written comments concerning the specific matter to the responsible city department and/or to the hearing body prior to the close of the hearing (excluding persons who have only signed petitions or mechanically-produced form letters); and
4. All persons who specifically request the notice of decision by entering their name and mailing address on a register provided for such purpose at the public hearing.

A person who becomes a party of record to an application/appeal shall remain such through subsequent City proceedings involving the same application/appeal; PROVIDED, that the City may cease mailing material to any party of record whose mail is returned by the postal service as undeliverable.

Planned Action: A significant development proposal as defined in RCW 43.21C.031 (SEPA) as amended.

Planner: The City Planner or designated representative.

Open record hearing: A hearing conducted by the designated hearing body which creates the City's official record through the submission of testimony and evidence, under procedures prescribed by this title. An open record hearing may be held as either a predecision hearing, a hearing in which a final decision is issued, or as an appeal of a final decision; however, no more than one open record hearing may be held on any proposed action.

RCW: Revised Code of Washington.

Site Plan, Binding: A site plan reviewed and approved pursuant to Title 14 - 22, SMC, 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 Snohomish County Auditor for recording.

SMC: Snohomish Municipal Code.

CHAPTER 14.03

ADMINISTRATION

Sections:

- 14.03.010 Roles and Responsibilities
- 14.03.020 City Planner
- 14.03.030 City Council
- 14.03.040 Planning Commission
- 14.03.050 Hearing Examiner
- 14.03.060 Design Review Board
- 14.03.070 Building Code Board of Appeals

14.03.010 Roles and Responsibilities.

- A. The regulation of land development is a cooperative activity, which can include many different elected and appointed boards and City staff. The specific responsibilities of these bodies are set forth below.
- B. A developer is expected to read and understand the City Development Code and be prepared to fulfill the obligations placed on the developer by Titles 14 through 22, SMC.

14.03.020 City Planner.

The Planner shall review and act on the following:

- A. Authority: The City Planner is responsible for the administration of Titles 14 through 22 of the Snohomish Municipal Code.
- B. Administrative Interpretation: Upon request by anyone proposing a specific action, or as determined necessary, the Planner shall interpret the meaning or application of the provisions of said titles and issue a written administrative interpretation within 30 days. Requests for interpretation shall be written and shall concisely identify the issue and desired interpretation.
- C. Administrative Approvals: Administrative approvals set forth in Section 14.09.020 and 14.09.030.
- D. Preliminary Short Plats.
- E. Shoreline Permits for Substantial Developments.
- F. Minor variances from the standards and dimensional requirements of the Zoning Code, Title 21, such as height, width, size, setback and yard restrictions.

G. SEPA (State Environmental Protection Act) Determinations.

The review criteria for certain actions are contained in Section 14.09.010 SMC.

14.03.030 City Council.

In addition to its legislative responsibility, the City Council shall review and act on the following subjects:

- A. Appeal of Hearing Examiner decisions.
- B. Appeal of Design Review Board decisions.
- C. Approval of Final Plats.
- D. Approval of the Community Development Plan.
- E. Approval of area-wide rezones.

14.03.040 Planning Commission.

The Planning Commission shall review and make recommendations on the following applications and subjects:

- A. Amendments to the Community Development Plan.
- B. Amendments to the Subdivision Code, Title 22, SMC.
- C. Amendments to the Zoning Code, Title 21, SMC, or the Official Map.
- D. Amendments to the Environmental Protection Code, Title 14, SMC.
- E. Other actions requested or remanded by the City Council.

The review criteria for certain actions are contained in Section 14.09.010, SMC.

14.03.050 Hearing Examiner.

The Hearing Examiner shall review and act on the following applications and subjects:

- A. Applications for preliminary subdivisions.
- B. Appeals of administrative decisions on preliminary short plats.
- C. Site-specific rezones.
- D. Binding Site Plan approvals for Mixed Use Zone, Critical Areas Exceptions, Planned Residential Developments and Low Income Density Incentive projects.
- E. Conditional Use Permits.
- F. Variances from the standards and dimensional regulations of the Zoning Code, Title 21, such as height, width, size, setback and yard restrictions, except that minor variances from the requirements of Title 21, SMC, shall be decided upon by the City Planner.
- G. Appeals of administrative approvals as set forth in Section 14.09.020 and 14.09.030, SMC.
- H. Shoreline Development Conditional Use Permits.
- I. Complaints by citizens or city staff seeking administrative enforcement of provisions of city land use codes or conditions in development permits and approvals, or seeking rescission or modification of such permits or approvals.
- J. Variances and administrative appeals from the sign code.
- K. Appeals of SEPA determinations.
- L. Appeals of administrative rulings on lot line adjustments.
- M. Appeals of administrative interpretations.
- N. Amortization periods for nonconforming signs.
- O. Other actions requested or remanded by the City Council.

The review criteria and procedures for the Hearing Examiner are contained in Chapter 2.33, SMC, and Section 14.09.010, SMC..

14.03.060 Design Review Board.

- A. The Design Review Board shall review and act on the following permit applications:

1. All applications within the Historic District requiring building permits, when the appearance of the exterior of the building will be changed.
 2. Landscape plans in the Historic District.
 3. Sign permits in the Historic District.
- B. The Design Review Board shall review the following applications and make recommendations to the Hearing Examiner:
1. Planned Residential Development landscaping and building exteriors.
 2. Mixed Use Development landscaping and building exteriors.
 3. Binding Site Plans.
- C. The Design Review Board shall review and make recommendations to the applicant on building elevations and landscape plans for all multi-family permits.

The review criteria for the Design Review Board are contained in Chapter 21.39, SMC.

14.03.070 Building Code Board of Appeals.

The Board of Appeals shall review and act on the following subjects:

- A. Appeals of decisions of the Building Official on the interpretation or application of the Building or Fire Code.
- B. Disapproval of a permit for failure to meet the Uniform Building or Fire Codes.

The review criteria for the Building Code Board of Appeals are contained in Chapter 19.04, SMC.

14.03.080 Conflicting Code Provisions.

Where the review process, procedure or time frames for the Building Code Board of Appeals, Design Review Board, Hearing Examiner, Planning Commission, City Council or Planner conflicts with the provisions of this title, this title shall control. Where the provisions of this title conflict with RCW 36.70B shall control.

CHAPTER 14.05

CONSOLIDATED APPLICATION PROCESS

Sections:

- 14.05.010 Application
- 14.05.020 Preapplication Meetings
- 14.05.030 Contents of Applications
- 14.05.040 Letter of Completeness
- 14.05.050 SEPA Review

14.05.010 Application.

- A. The City shall consolidate development application and review in order to integrate the development permit and environmental review process, while avoiding duplication of the review processes.
- B. All applications for development permits, design review approvals, variances and other City approvals under the Development Code shall be submitted on forms provided by the Department of Community Development. All applications shall be approved by the property owner(s) of record by acknowledgment in the presence of a notary.

14.05.020 Preapplication Meetings.

- A. Informal: Applicants for development are encouraged to participate in an informal meeting prior to a formal preapplication meeting. The purpose of the meeting is to discuss, in general terms, the proposed development, City design standards, design alternatives, and required permits and approval process.
- B. Formal: A preapplication meeting is required for all development projects except those listed in 14.07.010 E, SMC, Actions for which a Notice of Application is not Required. The purpose of the meeting is to discuss the nature of the proposed development, application and permit requirements, fees, review process and schedule, applicable plans, policies and regulations. In order to expedite development review, the City shall invite all affected jurisdictions, agencies and/or special districts to the preapplication meeting.

14.05.030 Content of Applications.

- A. All applications submitted for approval under Titles 14-22, SMC, shall include the information specified in the applicable title(s). The Planner may require such additional information as reasonably necessary to fully and properly evaluate the proposal.

- B. The applicant shall apply for all permits identified in the preapplication meeting. Within thirty days after the preapplication meeting, the City shall provide the applicant a list of all permits that were identified in the preapplication meeting.

14.05.040 Letter of Completeness.

- A. Within twenty-eight (28) days of receiving a date-stamped application, the City shall review the application and as set forth below, provide applicants with a written determination that the application is complete or incomplete. The written notice of completeness will include an itemization of all fees due. This notice may be sent by mail or fax, at the Planner's option. If a written notice is not provided by the end of the 28-day review period, the application will be deemed complete on the 29th day.
- B. A project application shall be declared complete only when it contains all of the following materials:
 - 1. A fully completed, signed, and acknowledged development application and all applicable review fees.
 - 2. A fully completed, signed, and acknowledged environmental checklist for projects subject to review under the State Environmental Policy Act.
 - 3. The information and plans specified for the desired project in the appropriate chapters of the Snohomish Municipal Code and as identified in Section 14.05.030, SMC.
 - 4. Any supplemental information or special studies identified by the Planner.
- C. For applications determined to be incomplete, the City shall identify, in writing, the specific requirements or information necessary to constitute a complete application. An incomplete application and all elements of the submittal will be returned to the applicant for re-submittal when complete.
- D. Upon resubmittal of the application, the City shall, within fourteen (14) days, issue a letter of completeness or identify what additional information is required. If the City does not identify required additional information, then the application will be deemed complete on the fifteenth day.
- E. The processing of a complete application will commence only after all applicable fees have been received.

14.05.050 Environmental Review.

- A. Developments and planned actions subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed in accordance with the policies and procedures contained in Title 16, SMC.
- B. SEPA review shall be conducted concurrently with development project review. The following are exempt from concurrent review:
 - 1. Projects categorically exempt from SEPA.
 - 2. Components of previously completed planned actions, to the extent permitted by law and consistent with the EIS for the planned action.

CHAPTER 14.07

PUBLIC NOTICE REQUIREMENTS

Sections:

- 14.07.010 Notice of Development Application
- 14.07.020 Notice of Administrative Approvals
- 14.07.030 Notice of Open Record Hearing
- 14.07.040 Notice of Appeal Hearing
- 14.07.050 Notice of Decision

14.07.010 Notice of Development Application.

- A. Within fourteen (14) days of issuing a letter of completeness under Chapter 14.05, SMC, the City Planner shall issue a Notice of Development Application. The notice shall include but not be limited to the following:
 - 1. The name of the applicant.
 - 2. Date of application.
 - 3. The date of the letter of completeness.
 - 4. The location of the project.
 - 5. A project description.
 - 6. The requested approvals, actions, and/or required studies.
 - 7. A public comment period not less than fourteen (14) nor more than thirty (30) days.

8. Identification of existing environmental documents.
 9. A City staff contact and phone number.
 10. The date, time, and place of an open record hearing if one has been scheduled.
 11. A statement that the decision on the application will be made within 120 days of the date of the letter of completeness, not including time required to prepare additional studies.
 12. Identification of other permits not included in the application, to the extent known by the city.
 13. A statement of the preliminary determination, if one has been made at the time of this notice, of those development regulations that will be used for project mitigation and of consistency as provided in 14.09.010, SMC.
 14. If the city has made a determination of significance under RCW 43.21C, (SEPA), concurrently with the notice of application, the notice of application shall be combined with the Determination of Significance (DS), and scoping notice. (A DS and scoping notice may be issued prior to the notice of application.)
- B. The Notice of Development Application shall be posted on the subject property and published once in a newspaper of general circulation. Both the first and last day shall be included in the calculation of the notice period for notices published in the newspaper.
- C. The Notice of Development Application shall be issued prior to, and is not a substitute for, the required notice of an open record hearing.
- D. The Notice of Development Application will be combined with a Determination of Significance (DS) and scoping notice, if one has been made at the time of this notice.
- E. A Notice of Application is not required for the following actions when they are categorically exempt from SEPA, or environmental review has been completed:
1. Application for building permits.
 2. Application for lot line adjustments
 3. Application for administrative approvals.
 4. Street vacations.
 5. Municipal public works.

6. Designation of historically significant structures.

14.07.020 Notice of Administrative Approvals.

Notice of administrative approvals subject to notice under Section 14.09.030, SMC shall be made as follows:

- A. Notification of Preliminary Approval: The Planner shall notify the adjacent property owners of his intent to grant approval. Notification shall be made by regular mail only. The notice shall include:
 1. A description of the preliminary approval granted, including any conditions of approval.
 2. A place where further information may be obtained.
 3. A statement that final approval will be granted unless an appeal requesting an open record hearing is filed with the City Clerk within fifteen (15) days of the date of the notice.

14.07.030 Notice of Open Record Hearing.

Notice of an open record hearing for all development applications and all open record appeals shall be given as follows:

- A. Time of Notice: Except as otherwise required, public notification of meetings, hearings, and pending actions under Titles 14 through 22, SMC, shall be made by:
 1. Publication at least ten (10) days before the date of a public meeting, hearing, or pending action in a newspaper of general circulation in the City. Both the first and last day shall be included in the calculation of the notice period for notices published in the newspaper; and
 2. Mailing at least ten (10) days before the date of a public meeting, hearing, or pending action to all property owners as shown on the records of the County Assessor and to all street addresses of properties within 300 feet, not including street rights-of-way, of the boundaries of the property which is the subject of the meeting or pending action, and
 3. Posting at least ten (10) days before the meeting, hearing, or pending action in three public places where ordinances are posted and at least one notice on the subject property.
- B. Content of Notice: The public notice shall include a general description of the proposed project, action to be taken, a nonlegal description of the property or a vicinity map or sketch, the time, date and place of the open record hearing and the place where further information may be obtained.

- C. 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 date certain and no further notice under this section is required.

14.07.040 Notice of Appeal Hearings.

In addition to the posting and publication requirements of Section 14.07.030, SMC, notice of appeal hearings shall be as follows:

- A. For an appeal of administrative approvals, notice shall be sent by regular mail to the applicant and adjacent property owners.
- B. For an appeal of Hearing Examiner decisions, notice shall be sent by regular mail to the parties of record from the open record hearing.

14.07.050 Notice of Decision.

A written notice of all final decisions shall be sent by regular mail to the applicant and all parties of record. For development applications requiring Hearing Examiner approval, the notice shall be the report issued by the Hearing Examiner.

CHAPTER 14.09

REVIEW AND APPROVAL PROCESS

Sections:

- 14.09.010 Application Review
- 14.09.020 Administrative Approval Without Notice
- 14.09.030 Administrative Approvals Subject to Notice
- 14.09.040 Hearing Examiner Decisions
- 14.09.050 Combined Public Meetings
- 14.09.060 Procedures for Open Record Hearings
- 14.09.070 Decision Time Frame and Exceptions

14.09.010 Application Review.

A review process which consolidates different permits is the standard review process utilized by the city. A single report, as described in Section 14.09.040 A, SMC, will be prepared for a development application. During a development application review, the city will not reconsider fundamental land use planning decisions which have been made in the adopted Community Development Plan or development regulations. During project review, the city shall determine whether the project is consistent with the following items described in the applicable plans and regulations:

- A. Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as Planned Residential Developments and Conditional Uses, if the criteria for their approval have been satisfied;
- B. Density of residential development in urban growth areas;
- C. Availability and adequacy of public facilities identified in the Community Development Plan; and
- D. Development standards.

14.09.020 Administrative Approvals Without Notice.

- A. The Planner may approve, approve with conditions, or deny the following actions without notice:
 - 1. Lot line adjustments.
 - 2. Extension of the 120-day time limit for development projects, if mutually agreed by the parties.
 - 3. Minor amendments or modifications to approved developments or permits. Minor amendments are those which may affect the precise dimensions or location of buildings, accessory structures and driveways, but do not: (I) affect overall project character, (ii) increase the number of lots, dwelling units, or density; or (iii) decrease the quality or amount of open space.
 - 4. Home Occupations.
- B. Planner's decisions under this section shall be final on the date issued.

14.09.030 Administrative Approvals Subject to Notice.

- A. The Planner may grant preliminary approval or approval with conditions, or may deny the following actions subject to the notice and appeal requirements of this section.

The Planner may also choose to conduct an open record hearing, if the planner determines a public benefit exists in doing so. A hearing would conform to the procedures as set forth for the Hearing Examiner.

1. Short Subdivisions.
2. Shoreline Permits for substantial developments.
3. Minor variances from the standards and dimensional regulations of Title 21, SMC, such as height, width, size, setback or yard restrictions.

- B. Final Administrative Approvals: Preliminary approvals under this section shall become final subject to the following:

1. If no appeal is filed as required by Chapter 14.11, SMC, the preliminary approval becomes final at the expiration of the 15-day notice period.
2. If a written notice of appeal is received within the specified time as provided in Chapter 14.11, SMC, the matter will be referred to the Hearing Examiner. If the planner has not held an open record hearing, the Hearing Examiner will hold an open record hearing. If the planner has held an open record hearing, the Hearing Examiner will hold a closed record hearing.

14.09.040 Hearing Examiner Decisions.

- A. Staff Report. The Planner shall prepare a staff report on the proposed development or action summarizing decisions made as of the date of the report on project permits, the comments and recommendations of City departments, affected agencies and special districts, and an evaluation of the development's consistency with the City's Development Code, adopted plans and regulations. The report shall state any mitigation required or proposed under the development regulations or the city's authority under RCW 43.21C.60 (SEPA). If a threshold determination other than a determination of significance has not been issued previously, the report shall include or append this information. The staff report shall include proposed findings, conclusions and a recommendation for disposition of the development application.
- B. Hearing. The Hearing Examiner shall conduct an open record hearing on development proposals for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for

consistency with the City's Development Code, adopted plans and regulations. Notice of the hearing shall be in accordance with Section 14.07.030, SMC, Notice of Open Record Hearing..

- C. Required Findings: The Hearing Examiner shall not approve a proposed development without first making the following findings and conclusions:
1. The development is consistent with the Community Development Plan and meets the requirements and intent of the Snohomish Municipal Code.
 2. The development adequately mitigates impacts identified under Chapters 16 and 21, SMC.
 3. The development does not lower the level of service of transportation facilities below the minimum standards established within the Community Development Plan. If the development results in a level of service lower than those set forth in the Community Development Plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development or if the City Engineer finds the overall level of service for transportation in an area is not significantly affected. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies are in place at the time of occupancy, or a financial commitment acceptable to the City is in place to complete the improvements or strategies within six (6) years of approval of the development.
 4. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development, and are proportional to the impacts created by the development.
- D. Additional Required Findings for Subdivisions: The Hearing Examiner shall not approve a proposed subdivision without also making the following findings and conclusions in addition to those listed in Section 14.09.040 C, SMC.
1. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
 2. The public use and interest will be served by the platting of such subdivision and dedication.

3. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the Hearing Examiner shall approve the proposed subdivision and dedication.
- E. Decision. Upon approving or disapproving a development proposal or action, the Hearing Examiner shall prepare and adopt a written decision setting forth its findings, conclusions, recommendations, and effective date of the decision, as set forth in Chapter 2.33, SMC.

14.09.050 Combined Public Meetings.

The city may combine any hearing on a project permit with any hearing that may be held by another local, state, regional, federal or other agency provided that the hearing is held within city limits. Hearings shall be combined if requested by an applicant, as long as the joint hearing can be held within the time periods specified in this chapter or the applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings. Hearings can only be combined if (a) notice requirements of each agency are met, (b) agencies have received the necessary information from the applicant, and (c) an agency is not prohibited by statute from doing so.

14.09.060 Procedures for Open Record Hearings.

Only one open record hearing is allowed per project. Open record hearings shall be conducted in accordance with the Hearing Examiner's rules of procedure as adopted by City Council resolution and shall serve to create or supplement an evidentiary record upon which the body will base its decision.

14.09.070 Decision Time Frame and Exceptions.

- A. Time. The final decision on a development proposal shall be made within 120 days from the date of the letter of completeness. The city shall provide a written explanation to the applicant if the required time deadlines are not met. Exceptions to the 120 day deadline include:
1. Amendments to the Community Development Plan or Development Code.
 2. Any time required to correct plans, perform studies or provide additional information, provided that within 14 days of receiving the requested additional information, the Planner shall determine whether the information is adequate to resume the project review.
 3. Substantial project revisions 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. Substantial project revisions may include minor revisions which are made late in the review process.

4. All time required for the preparation and review of an environmental impact statement.
 5. Projects involving the siting of an essential public facility.
 6. An extension of time mutually agreed upon by the City and the applicant.
 7. All time required to obtain a variance.
 8. Any remand to the hearing body.
 9. All time required for the administrative appeal of a Determination of Significance.
 10. All time required for appeal of an administrative determination as described in Section 14.03.929 B, SMC.
- B. Effective Date. The final decision of the Council, Hearing Examiner or City Planner shall be effective on the date stated in the decision, motion, resolution, or ordinance, provided that the date from which appeal periods shall be calculated shall be the date the Council or hearing body takes action on the motion, resolution, or ordinance.

CHAPTER 14.11

APPEALS

Sections:

- 14.11.010 Appeal Process - General Description
- 14.11.020 Appeal of Administrative Interpretations and Approvals
- 14.11.030 Appeal of Hearing Examiner Decisions
- 14.11.040 Appeal Process
- 14.11.050 Remand
- 14.11.060 Judicial Appeal

14.11.010 Appeal Process - General Description.

- A. Only a single public hearing will be held on any development project permit application. Permit decisions made by the City Planner (administrative decisions) are made without an open record hearing unless the director determines that there is a public benefit in doing so.
- B. Administrative decisions are appealable to the Hearing Examiner. If a hearing has not already been held, the Hearing Examiner will conduct a hearing in which public testimony and new information may be presented (open record hearing). If an open record hearing has already been held, then the examiner will hold a closed record hearing.
- C. Once an open record hearing has been held, only one further administrative appeal is allowed (a closed record appeal). If the Hearing Examiner held the open record hearing, then the administrative appeal is to the City Council.
- D. Appeals of Council decisions and appeals of Hearing Examiner's decisions on appeals shall be made to Superior Court (judicial appeal).

14.11.020 Appeal of Administrative Interpretations and Approvals.

Administrative interpretations and administrative approvals may be appealed by applicants or aggrieved adjacent property owners to the Hearing Examiner. Appeals shall be filed within fourteen (14) days of the notice of decision.

14.11.030 Appeal of Hearing Examiner Decisions.

Decisions of the Hearing Examiner may be appealed to the City Council by any aggrieved parties of record or the City staff. Upon receiving an appeal of a Hearing Examiner's decision, Design Review Board decision, or notice of any other matter requiring the Council's attention, the Council shall consider the appeal according to the procedures as set forth in Section 2.33.150, SMC.

14.11.040 Appeal Process.

- A. Filing. Appeals shall be addressed to the Hearing Examiner or to the Snohomish City Council, but shall be filed in writing with the City Clerk within fourteen (14) calendar days following the date of the examiner's or director's decision; PROVIDED, that the appeal period shall be extended an additional seven (7) days if a Determination of Nonsignificance was issued as part of the project permit decision.
- B. Fees: Appeals shall be accompanied by a filing fee in the amount to be set by City Council resolution; PROVIDED, that the filing fee shall not be charged to city staff or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without

hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect.

- C. Grounds for Appeal. The grounds for filing an appeal shall be limited to the following:
1. The examiner/director exceeded his jurisdiction;
 2. The examiner/director failed to follow the applicable procedure in reaching his decision;
 3. The examiner/director committed an error of law or misinterpreted the applicable city regulation, ordinance or other state law or regulation; or
 4. The examiner's/director's findings, conclusions and/or conditions are not supported by the record.
- D. Contents of Appeal. An appeal must contain the items set forth in the following subsections in order to be complete. The Hearing Examiner or City Council may allow an appellant not more than fourteen (14) days to perfect an otherwise timely filed appeal, if such appeal is incomplete in some manner.
1. A detailed statement of the grounds for appeal, making reference to each finding, conclusion or condition which is alleged to contain error;
 2. A detailed statement of the facts upon which the appeal is based;
 3. The name, mailing address and daytime telephone number of each appellant, together with the signature of at least one of the appellants or of the attorney for the appellant(s), if any;
 4. The name, mailing address, daytime telephone number and signature of the appellant's agent or representative, if any; and
 5. The required filing fee.
- E. Closed record appeals shall be conducted in accordance with the hearing body's rules of procedure and shall serve to provide guidance for the body's decision. Closed record appeals shall be conducted generally as provided for open record hearings. Except as provided in Chapter 2.33, SMC, no new evidence or testimony shall be given or received. The parties to the appeal may submit timely written statements or arguments. A closed record appeal shall be heard and decided within sixty (60) days. Only one closed record appeal is allowed per project.
- F. An appeal may be an open record hearing, but only if no open record hearing was held prior to the appeal. If an open record hearing is held for an appeal, it shall be heard and decided within ninety (90) days.

- G. Within ten (10) calendar days following timely filing of a complete appeal with the City Clerk, notice of the date, time and place for hearing examiner or council consideration shall be mailed by the City Clerk to the appellant, to the examiner, and to all other parties of record.
- H. All appeal proceedings shall be limited to those issues expressly raised in a timely written appeal.
- I. Where no open record hearing has already been held, a City Planner decision which has been timely appealed shall come on for Hearing Examiner consideration within an open record hearing no sooner than twenty-one (21) nor longer than thirty-five (35) calendar days from the date the appeal was filed. Public comment and testimony shall be heard at such public meeting.
- J. Council Consideration.
 - 1. A Hearing Examiner decision which has been timely appealed shall come on for Council consideration in open public meeting no sooner than twenty-one (21) nor longer than thirty-five (35) calendar days from the date the appeal was filed.
 - 2. The Council shall consider the matter based upon the record before the examiner, the examiner's decision, and the written appeal statement. No public comment or testimony shall be heard at such public meeting.
- K. Final Decision.
 - 1. At the conclusion of the hearing, the hearing body shall enter a decision which shall set forth the findings and conclusions of the hearing body in support of its decision. The hearing body may adopt any or all of the findings or conclusions of the planner or examiner which supports the hearing body's decision. The hearing body may affirm the decision of the planner or examiner, reverse the decision of the planner or examiner either wholly or in part, or may remand the matter to the planner or examiner for further proceedings in accordance with the hearing body's findings and conclusions.
 - 2. The hearing body's decision shall be reduced to writing and entered into the record of the proceedings within fifteen (15) calendar days of the conclusion of the hearing. Copies of the decision shall be mailed to all parties of record.
- L. Timely filing of an appeal shall stay the effective date of the examiner's or City Council's decision until such time as the appeal is adjudicated or withdrawn. The Examiner or Council shall have authority to rule on the timeliness and completeness of appeals filed for its consideration.

- M. No new appeal issues may be raised or submitted after the close of the time period established in subsection (D) above, or filing of the original appeal.

14.11.050 Remand.

In the event the City Council determines that the open record hearing record or record on appeal contains an error of law or fact, the Council may remand the matter back to the hearing examiner to correct the deficiencies. The Council shall specify the items or issues to be considered and the time frame for completing the additional work. The Council may hold an open record hearing on a closed record appeal only for the limited purposes identified in RCW 34.05.562(1).

14.11.060 Judicial Appeal.

- A. The City Council’s decision shall be final and conclusive with right of appeal to the Superior Court of Snohomish County exclusively in the form of a Land Use Petition within fifteen (15) calendar days after the council’s decision is reduced to writing and entered into the record. The cost of transcription of all records ordered certified by the court for such review shall be borne by the applicant for the writ.
- B. Notice of the appeal and any other pleadings required to be filed with the court shall be served on the City Clerk, City Planner, and City Attorney within the applicable time period.
- C. The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. The appellant shall post with the City Clerk prior to the preparation of any records an advance fee deposit in the amount specified by the City Clerk. Any overage will be promptly returned to the appellant.

CHAPTER 14.15

COMMUNITY DEVELOPMENT PLAN

Sections:

- 14.15.010 Adoption
- 14.15.020 Amendments
- 14.15.030 Project Review - Amendment Suggestion Procedure

14.15.010 Adoption.

The City has adopted the City of Snohomish Community Development Plan as its comprehensive plan, per RCW 35.63 and RCW 36.70A.070.

14.15.020 Amendments.

A. The Community Development Plan and development regulations are subject to continuing evaluation and review by the City.

Any amendment or revision to the Community Development Plan shall conform to this chapter, and any change to development regulations shall be consistent with and implement the Community Development Plan.

B. Proposed amendments or revisions of the Community Development Plan shall be considered by the City no more frequently than once every year, except that amendments may be considered more frequently under the following circumstances:

1. The initial adoption of a subarea plan; or
2. The amendment of the Shoreline Master Program under the procedures set forth in RCW 90.58.

All proposals shall be considered by the City concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation the City may adopt amendments or revisions to its Community Development Plan that conform with this chapter whenever an emergency exists or to resolve an appeal of the Community Development Plan filed with the Growth Management Hearings Board or with the court.

C. At least every ten years, in conjunction with the county, the City shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each City and the unincorporated portions of the urban growth area. The densities permitted in the urban growth area by the Community Development Plan of the City shall be revised to accommodate the urban growth projected to occur in the succeeding twenty-year period.

14.15.030 Project Review - Amendment Suggestion Procedure.

A. Project review shall be used to make individual project decisions, not land use planning decisions. If, during project review, the City identifies deficiencies in plans or regulations:

1. The permitting process shall not be used as a Comprehensive Planning process;
 2. Project review shall continue; and
 3. The identified deficiencies shall be docketed for possible future plan or development regulation amendments.
- B. Any interested person, including applicants, citizens, Hearing Examiners, and staff of other agencies, may suggest plan or development regulation amendments. The suggested amendments shall be in writing, to be docketed and considered on at least an annual basis.
- C. For the purposes of this section, a deficiency in the Community Development Plan or development regulations refers to the absence of required or potentially desirable contents of the Community Development Plan or development regulations. It does not refer to whether a development regulation addresses a project's probable specific adverse environmental impacts which the City could mitigate in the normal project review process.
- D. For the purposes of this section, docketing refers to compiling and maintaining a list of suggested changes to the Community Development Plan or development regulations, ensuring that suggested changes will be considered by the City and will be available for review by the public.

PASSED by the City Council and APPROVED by the Mayor this 5th day of May 1996.

CITY OF SNOHOMISH

By /s/Jeff Soth

Jeff Soth, Mayor

ATTEST:

By /s/ Molly Linville

Molly Linville, City Clerk

APPROVED AS TO FORM:

By /s/ Grant Weed

Grant Weed, City Attorney

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