

**POULSBO DISTRIBUTION SCHEDULE**

**ORDINANCE NO. 2016-005**

**SUBJECT: Amending and Replacing Title 19**

**CONFORM AS TO DATES & SIGNATURES**

- Filed with the City Clerk: 2/24/2016
- Passed by the City Council: 3/2/2016
- Signature of Mayor
- Signature of City Clerk
- Publication: 3/11/2016
- Effective: 3/16/2016
- Recorded: \_\_\_\_\_

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Rhiannon Fernandez  
City Clerk

3/7/2016  
Date

**ORDINANCE NO. 2016-005**

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, AMENDING AND REPLACING TITLE 19 OF THE POULSBO MUNICIPAL CODE IN ORDER TO ADOPT THE 2016 TITLE 19 PROJECT PERMIT APPLICATION PROCEDURES ORDINANCE UPDATE; REFORMATTING THE ORGANIZATION OF THE ORDINANCE; CHANGING THE PERMIT TYPE FOR BINDING SITE PLANS; INCLUDING PRELIMINARY SUBSTANTIVE REVIEW UNDER THE TECHNICALLY COMPLETE REVIEW; ESTABLISHING A MAXIMUM TIMEFRAME FOR WHEN A TECHNICAL COMPLETE APPLICATION IS TO PROVIDE ALL MATERIALS; EXTENDING REVIEW TIMEFRAME FOR TYPE I PERMITS; ADDING TO TYPE III PERMITS CONTINUING THE PUBLIC HEARING AND REMANDING THE APPLICATION FOR ADDITIONAL INFORMATION; CREATING A NEW PUBLIC NOTICES SECTION; REQUIRING TYPE II PERMITS NOTICE OF APPLICATIONS TO BE PUBLISHED IN A NEWSPAPER; INCLUDING PUBLIC MEETING NOTICE FOR PLANNING COMMISSION REVIEW OF TYPE III PERMITS; REQUIRING THE APPLICANT TO POST PUBLIC HEARING BOARD; ESTABLISHING MAXIMUM TIME FRAMES FOR APPLICANT TO PROVIDE REVISIONS, CORRECTIONS, STUDIES, OR INFORMATION WHEN REQUESTED; AND ESTABLISHING ADDITIONAL PROCEDURES FOR POST DECISION REVIEW; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

**WHEREAS**, the Growth Management Act requires that every city planning under the GMA periodically update its development regulations; and

**WHEREAS**, pursuant to RCW 36.70A.130(5), the City is required to complete a periodic update of its development regulations no later than June 30, 2016; and

**WHEREAS**, in order to meet the GMA requirements, the City initiated an update of its permit application procedural ordinance in November 2015; and

**WHEREAS**, on November 16, 2015, the City released the November 2015 Draft Title Project Permit Application Procedures Ordinance and public participation plan drafted by the City planning staff to the public, state, and local agencies and interested parties; and

**WHEREAS**, the draft ordinance proposed numerous changes to Title 19, including reformatting the ordinance; and

**WHEREAS**, the City conducted environmental review of the proposed Draft November 2015 Title 19 under the State Environmental Policy Act and, using the optional DNS process, issued a Notice of Application with Optional DNS on November 20, 2015; and

**WHEREAS**, the Poulsbo Planning Commission held a series of three workshops during December 2015, and conducted a thorough and methodical review of the Draft Title; and

**WHEREAS**, at the conclusion of the third workshop, the Poulsbo Planning Commission identified a number of modifications to the Draft November 2015 Title 19, directed staff to prepare a Planning Commission Modified Draft Title 19, and to schedule a public hearing; and

**WHEREAS**, the Poulsbo Planning Commission held a duly noticed public hearing on the Planning Commission Modified Title 19 on January 12, 2016, in order to obtain public input and, after the conclusion of the public hearing and deliberations, recommended that the Poulsbo City Council approve the January 2016 Planning Commission Modified Title 19; and

**WHEREAS**, the Poulsbo City Council held a workshop on the January 2016 Planning Commission Modified Title 19 on January 20, 2016 and identified a number of desired modifications; and

**WHEREAS**, the Poulsbo City Council held a duly noticed public hearing on the January 2016 Planning Commission Modified Title 19 on February 10, 2016 in order to obtain public input on the draft ordinance; and

**WHEREAS**, after considering the public testimony, other available information, the Poulsbo City Council determined on February 10, 2016 to accept the January 2016 Planning Commission Modified Title 19 and made certain revisions and modifications as presented in the February 3, 2016 staff report;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF POULSBO, WASHINGTON,**

**DO ORDAIN AS FOLLOWS:**

**Section 1.** Findings. In support of the actions undertaken by this ordinance, the Poulsbo City Council adopts as findings and conclusions a) the recitals above; b) the Staff Report to Mayor Erickson and City Council dated February 3, 2016; and c) Staff memo to Mayor Erickson and City Council dated January 13, 2016.

**Section 2.** Adoption of Permit Application Procedures Ordinance Update. Title 19 of the Poulsbo Municipal Code is hereby amended and replaced to read as set forth on Exhibit A attached hereto and incorporated herein by this reference as if set forth in full.

**Section 3.** 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 4.** Effective Date. This ordinance shall take effect five (5) days after publication of the attached summary, which is hereby approved.

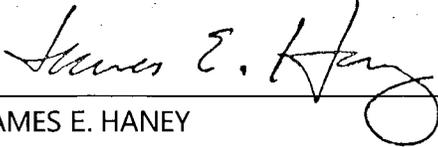
APPROVED:

  
\_\_\_\_\_  
MAYOR REBECCA ERICKSON

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
CITY CLERK RHIANNON FERNANDEZ, CMC

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY:

BY   
\_\_\_\_\_  
JAMES E. HANEY

FILED WITH THE CITY CLERK: 02/24/2016  
PASSED BY THE CITY COUNCIL: 03/02/2016  
PUBLISHED: 03/11/2016  
EFFECTIVE DATE: 03/16/2016  
ORDINANCE NO. 2016-05

**SUMMARY OF ORDINANCE NO. 2016-05**

of the City of Poulsbo, Washington

On the 2nd day of March, 2016, the City Council of the City of Poulsbo, passed Ordinance No. 2016-05. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, AMENDING AND REPLACING TITLE 19 OF THE POULSBO MUNICIPAL CODE IN ORDER TO ADOPT THE 2016 TITLE 19 PROJECT PERMIT APPLICATION PROCEDURES ORDINANCE UPDATE; REFORMATTING THE ORGANIZATION OF THE ORDINANCE; CHANGING THE PERMIT TYPE FOR BINDING SITE PLANS; INCLUDING PRELIMINARY SUBSTANTIVE REVIEW UNDER THE TECHNICALLY COMPLETE REVIEW; ESTABLISHING A MAXIMUM TIMEFRAME FOR WHEN A TECHNICAL COMPLETE IS APPLICATION IS TO PROVIDE ALL MATERIALS; EXTENDING REVIEW TIMEFRAME FOR TYPE I PERMITS; ADDING TO TYPE III PERMITS CONTINUING THE PUBLIC HEARING AND REMANDING THE APPLICATION FOR ADDITIONAL INFORMATION; CREATING A NEW PUBLIC NOTICES SECTION; REQUIRING TYPE II PERMITS NOTICE OF APPLICATIONS TO BE PUBLISHED IN A NEWSPAPER; INCLUDING PUBLIC MEETING NOTICE FOR PLANNING COMMISSION REVIEW OF TYPE III PERMITS; REQUIRE THE APPLICANT TO POST PUBLIC HEARING BOARD; ESTABLISHING MAXIMUM TIME FRAMES FOR APPLICANT TO PROVIDE REVISIONS, CORRECTIONS, STUDIES OR INFORMATION WHEN REQUESTED; AND ESTABLISHING ADDITIONAL PROCEDURES FOR POST DECISION REVIEW; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 2nd day of March, 2016.

  
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RHIANNON FERNANDEZ, CMC, CITY CLERK

**Title 19                      Project Permit Application Procedures**

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## **19.10 General Provisions.**

### **19.10.010 Purpose.**

The purpose of this Title is to establish standard procedures for all land use and related decisions made by the City of Poulsbo. The procedures are designed to promote timely and informed public participation, eliminate redundancy in the application, permit review, and appeal processes, minimize delay and expense, and result in development approvals that further the City vision and goals as set forth in the comprehensive plan. As required by RCW 36.70B.060, these procedures provide for an integrated and consolidated land use permit process. The procedures integrate the environmental review process with the procedures for review of land use decisions and provide for the consolidation of appeal processes for land use decision.

### **19.10.020 Consistency with applicable codes.**

Where applicable, this Title is intended to establish the procedures for determining whether development permit applications can be approved or conditionally approved to be consistent with applicable code, policies and standards.

### **19.10.030 Definitions.**

**Applicant.** The person submitting an application for development.

**Approval.** Any authorization issued by the City of Poulsbo which approves a permit application.

**Building Official.** The building official shall mean the designated Poulsbo Building Official or duly authorized designee.

**City.** The City of Poulsbo, Washington.

**City Council.** The City Council of the City of Poulsbo, Washington.

**City Engineer.** The City Engineer shall mean the designated Poulsbo City Engineer or duly authorized designee.

**Concomitant Agreement.** An agreement recorded against the title of a parcel of land under which a property owner binds the property to certain terms and conditions in exchange for development approval.

**Counter Complete.** The determination made by the Planning Director at the time of submittal, that a permit application includes all the necessary documents and pieces of information identified in the pre-application conference summary letter.

**Development Regulations.** The controls placed on development or land use activities, including but not limited to zoning, critical areas, shoreline master programs, subdivisions, clearing and grading.

**Hearing Examiner.** The administrative Hearing Examiner set forth in PMC 2.46.

**Liberal Construction.** Interpretation of a document not only on the basis of actual words and phrases used in it, but by also taking its deemed or stated purpose into account.

**Open Record Public Hearing.** A hearing that creates the City's record on a permit application through testimony and submission of evidence and information, under procedures prescribed by the City.

**Optional Determination of Non-Significance (DNS).** A project proposal which is processed under the optional DNS process set forth in PMC 16.04.115 and WAC 197-11-355.

**Parties of Record.** For purposes of this Title, parties of record are for technically complete projects submitted to the City, and means:

1. The applicant.
2. The property owner, if different than the applicant.
3. The City.
4. Any person or public agency who individually submitted written comments to the City prior to the closing of the comment period provided in a legal notice.
5. Any person or public agency who individually submitted written comments for or testified at a public hearing.
6. Any person or public agency who submitted to the City a written request to specifically receive the Notice of Decision or to be included as a party of record for the project.
7. A party of record does not include a person who has only signed a petition

**Permit Application.** Permit applications include Type I, II, III, IV and V permits listed in Table 19.20.020.

**Permit Intake Appointment.** A permit intake appointment is an appointment made by an applicant with a member of the Planning and Economic Development department, in order to submit a land use permit application with the City.

**Planning Commission.** The planning commission of the City of Poulsbo, Washington.

**Planning Director.** The Planning Director of the Poulsbo Planning Department or the director's authorized representative.

**Public Meeting.** An informal meeting, workshop or other public gathering of persons to obtain comments from the public or other agencies on a proposed project permit application prior to the City's decision. A public meeting does not include an open record hearing and decisions on a project will not be made at a public meeting.

**Review Authority.** The person or body responsible for interpreting and/or deciding a land use permit or activity, and as identified in Table 19.20.020.

**SEPA.** SEPA means the State Environmental Policy Act and includes the provisions of Chapter 43.21C RCW, Chapter 197-11 WAC, and Chapter 16.04 PMC.

**Technically Complete.** The determination made by the Planning Director that a permit application and associated documentation contain sufficient information and detail to proceed with the review process; such determination shall not be interpreted to mean that the application meets all applicable standards. A preliminary substantive review is completed during the determination process. Additional or revised information may be required during the review process.

**19.10.040 Administration and Interpretation.**

- A. The Planning Director shall be responsible for the interpretation and administration of the provisions of this Title. The director's interpretation and administration shall be in keeping with the spirit and intent of this title, RCW 36.70B and the comprehensive plan.
- B. Within this Title, when the Planning Director is identified as responsible for a procedural action, this authorization includes the director's authorized city representative; further, the action made by the Planning Director or authorized city representative may occur upon consultation with other development review department staff.
- C. Should a conflict arise between the provisions of this Title or between this Title and the laws, regulations, codes or rules promulgated by other authority having jurisdiction within the city, the most restrictive requirement shall be applied, except when constrained by federal or state law, or where specifically provided otherwise.
- D. Relative to land use permitting and development, the administration and interpretation of the Poulsbo Municipal Code shall be as follows: the Planning Director shall interpret and apply the provisions of Title 16, applicable portions of Title 15, Title 17 and Title 18. The City Engineer shall interpret and apply applicable provisions of Title 12, Title 13, and Title 15. The Building Official shall interpret and apply the applicable provisions of Title 15 and the International Building Code.

**19.10.050 Liberal Construction.**

This Title shall be liberally interpreted and construed to give full effect to the purposes, goals, objectives and policies for which RCW 36.70B and this Title were enacted, and the rule of strict construction shall have no application.

**19.10.060 Severability.**

If any provision of this Title or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances, is not affected, and to this end the provisions of this code are declared to be severable.

## **19.20 Application Classification.**

### **19.20.010 Permit Application Type.**

Land use and development decisions are divided into five processes based on the type of application, who makes the decision, the amount of discretion exercised by the decision maker, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity.

- A. A Type I application permit process is an administrative review and decision by the appropriate department head or designee. These are applications which are generally categorically exempt from review under State Environmental Policy Act (SEPA) or permits for which environmental review has been completed in connection with another application, and which have limited or no public interest. A Type I application is subject to clear, objective and nondiscretionary standards or standards that require the exercise of professional judgment about technical issues.
- B. A Type II application permit process is an administrative review and decision by the appropriate department head or designee. A Type II application is subject to objective and subjective standards that require the exercise of limited discretion about nontechnical issues and about which there may be a limited public interest. Public notification is provided at the application and decision stages of review. Environmental review is conducted, when required.
- C. A Type III application permit process is a quasi-judicial review and decision made by the Hearing Examiner or, in the case of Master Plans, by the City Council. A Type III application is subject to standards that may require the exercise of substantial discretion and about which there may be a broad public interest. Environmental review is conducted, when required. The appropriate Review Authority holds an open record public hearing after receiving a recommendation from the Planning Commission. Depending on the application, a neighborhood meeting may be required to obtain public input. Public notification is provided at the application, public hearing and decision stages of application review. The appropriate Review Authority makes a decision after considering the recommendation of the Planning Commission, the public testimony received at the open public hearing, and project file record.
- D. A Type IV application permit process is a legislative land use decision made by the City Council under its authority to establish policies and regulations regarding future development and management of land. A Type IV application is the creation or amendment of land use policy or law by ordinance, or the land use designation and zoning of property on a map. Environmental review is conducted when required. The Planning Commission holds a public hearing and makes a recommendation to the City Council. The City Council holds a public hearing and makes the final decision.

- E. A Type V application permit process is a legislative land use decision made by the City Council involving legislatively enacted, approved and valid concomitant agreements governing a specific property when it is in the best interest of the property owner and the City to release or modify the property from the conditions imposed by the concomitant agreement. The City Council holds a public hearing and makes the final decision.

**19.20.020 Permit Application Classification.**

The following table sets forth the various applications required and classifies each application by the process used to review and the Review Authority who will decide the application.

**Table 19.20.020  
Permit, Process and Review Authority Classification**

Accessory Dwelling Unit	I	PD
Accessory Dwelling Unit, w/Administrative Conditional Use Permit	II	PD
Administrative Interpretation/Determination, written <i>(including but not limited to: similar use determination; code/map interpretations; landscape plan review/approval; family day care home; etc.</i>	I	PD
Administrative Modification	I/II	PD
Annexation	Exempt	CC/BRB
Appeals Type I and II permit decisions Type III permit decisions Type IV Type V		HE CC GMHB Kitsap County Superior Court
Binding Site Plan	II	PD
Binding Site Plan Modification	I	PD
Boundary Line Adjustment	I	PD
Building Permit	Exempt	BO
Clearing Permit	I/II	PD
Comprehensive Plan Map, Policy or Text Amendment	IV	CC
Concomitant Agreements, release	V	CC
Construction/Engineering Drawing Review	Exempt	CE
Conditional Use Permit	III	HE
Conditional Use Permit, Administrative	II	PD
Construction Standards	IV	CC
Critical Area Permit	II	PD
Design Review, with underlying land use application	Underlying application	Underlying application

with building permit only	I	PD
Development Agreements	Exempt	CC
Development Regulations	IV	CC
Final Plat Final PRD Site Development Plan Final PMUD Site Development Plan	Exempt	CC
Grading Permit	I/II	CE
Home Business	Exempt	City Clerk Business License only
Home Occupation	II	PD
Master Plan, including establishment of map overlay (which requires a zoning map amendment), and/or amendments to existing master plan	III	CC
Preliminary Subdivision/Plat	III	HE
Preliminary Subdivision/Plat Modifications	II	PD/CE
Planned Residential Development (PRD)	III	HE
Planned Mixed Use Development (PMUD)	III	HE
Plat Alterations and Vacation	Exempt	CC
Post Decision Modifications	I or II	PD
Public Agency and Utility Exception (Critical Areas Ordinance)	III	HE
Right of Way Permit	Exempt	CE
Reasonable Accommodations (Zoning Ordinance)	Exempt	PD
Reasonable Use Exception (Critical Areas Ordinance)	III	HE
SEPA threshold determination, stand alone, not associated with other land use permit; subject to SEPA notification requirements	I	PD
Shoreline Conditional Use Permit	III	HE
Shoreline Conditional Use Permit, minor	II	PD
Shoreline Exemption	I	PD
Shoreline Master Program	IV	CC
Shoreline Substantial Development Permit	III	HE
Shoreline Substantial Development Permit, Minor	II	PD
Shoreline Variance	III	HE
Short Subdivision/Plat	II	PD
Short Subdivision/Plat Modifications	I	PD/CE
Short Subdivision/Plat, Final	Exempt	CE
Sign Permit	Exempt	BO/PD
Site Plan Review	II	PD
Site Plan Review, Minor	I	PD

Street Vacations	Exempt	CC
Temporary Use Permit	I	PD
Variance	III	HE
Zoning Map Amendment – Zoning Map only, when consistent with Comprehensive Plan and an amendment to the Comprehensive Plan is not necessary	III	HE
Zoning Map Amendment – when associated with a master plan overlay designation, and consistent with Comprehensive Plan and an amendment to the Comprehensive Plan is not necessary	III	CC
Zoning Map Amendment – area wide, city wide, or site specific when requiring a Comprehensive Plan Amendment	IV	CC
Zoning Code Amendment - text	IV	CC

*PD: Planning Director; CE: City Engineer; PD/CE: Both Planning Director and City Engineering ; BO: Building Official; BO/PD: Both Building Official and Planning Director; HE: Hearing Examiner; CC: City Council; BRB: Boundary Review Board; GMHB: Growth Management Hearings Board*

*Note: An Exempt status in Table 19.20.020 indicates exemption from the procedural requirements of this Title, and does not indicate exemption from other City required permits.*

**19.20.030 Permits Not Listed.**

If a permit or land use action is not listed in Table 19.20.020, the Planning Director shall make a determination as to the appropriate review procedure based on the most analogous permit or land use action listed.

**19.20.040 Consolidation of Permits and Appeals.**

- A. Where more than one land use permit for a given development is required, all permit applications (except Type I applications), may be submitted for review collectively according to the consolidated review process established by this section.
- B. Where two or more land use applications for a given development are submitted for consolidated review, the review shall be conducted using the highest numbered process type applicable to any of the land use applications, provided that each land use application shall only be subject to the relevant decision criteria applicable to that particular development application. For example, a development proposal that includes a Type II application and a Type III application shall be reviewed using the Type III process, but the Type II application shall be decided based on the relevant decision criteria applicable to the Type II application.
- C. When the consolidated process established by this section is used, the City shall issue single, consolidated notices, staff reports, and decision documents encompassing all of

the land use applications under review. Except as provided in subsection E below, the applications shall be considered in a single, consolidated open record public hearing when applicable, and shall be subject to no more than one consolidated closed record appeal.

- D. Where a development requires more than one land use permit but the applicant elects not to submit all applications for consolidated review, applications may be submitted and processed sequentially, provided that the permit subject to the highest numbered process type must be submitted and obtained first, followed by the other permits in sequence from the highest numbered type to the lowest.
- E. Where a development proposal requires a comprehensive plan and/or zoning map amendment, the map amendments must be considered and approved by the City Council before any hearing is held or decision is made on any relevant application for conditional use permit, subdivision, planned residential development, variance, master planned development, site plan, or other similar quasi-judicial or administrative action. This subsection is intended to be a “procedural requirement” applicable to such actions as contemplated by RCW 58.71.070.
- F. All appeals of project permit decisions for single project shall be consolidated and heard together in a single appeal, except for appeals of SEPA Determinations of Significance. Where a Determination of Significance (DS) is appealed, the appeal shall be heard by the Hearing Examiner prior to any consideration of the underlying application. Where a Determination of Non-Significance (DNS) or the adequacy of an Environmental Impact Statement (EIS) is appealed, the hearing on the appeal shall be consolidated with any open record public hearing to be conducted on the underlying application.

## **19.30 Application Requirements.**

### **19.30.010 Preapplication Review.**

- A. The purpose of preapplication review is:
  - 1. To acquaint city and other agency staff with a sufficient level of detail about the proposed development, in order for staff to advise applicants on the requirements of the Poulsbo Municipal Code and other applicable requirements, law and information from the City and other agencies.
  - 2. To reduce or eliminate the City’s need to request additional information or corrections that causes revisions or resubmittals.
  - 3. Reduce time frames for approval of land use applications by providing the applicant detailed input and applicable requirements in order for the applicant to submit a complete and code-compliant land use application.

- B. Preapplication review is required for Type II and III permits, and Type IV and V permit applications that are not filed by the City.
- C. Preapplication review may be waived by the Planning Director only for Type II permit applications, when: a) a completed preapplication form and any requested information has been submitted by applicant; and b) the Planning Director, in consultation with other development review departments, determines that the proposal is ready for counter complete review and includes all necessary documents.
  - 1. In general, a waiver of a preapplication conference may be granted when it is either: a) determined the proposal is relatively simple (i.e. has few development-related issues); b) involves subsequent phases of an approved development where requirements are known; c) an application is substantially similar to a prior proposal affecting substantially the same property; or d) is an application for post-decision modification(s).
  - 2. In requesting a waiver, the applicant shall complete a waiver request form as provided by the Planning Department and submit it with the preapplication package submittal, explain why the application warrants waiving of preapplication review, and acknowledge that waiving the preapplication review increases the risk the application processing will be delayed. The preapplication package shall contain all the documents necessary for counter complete review (Section 19.30.020).
- D. To initiate preapplication review, an applicant shall submit a completed preapplication form with the requested information to the City and required fee. Information not provided on the form shall be provided on the face of a supporting map, drawing, documents or attachments. The information included in the submitted materials shall be of sufficient detail in order for the City to adequately review the proposed project and provide feedback.
- E. Within 14 calendar days after receipt of an application for preapplication review, the Planning Department shall schedule a preapplication conference and provide in writing to the applicant, City development review staff and other appropriate agencies, a notice of the conference with date, time and location.
- F. The Planning Department shall coordinate the involvement of department and agency staff responsible for development review in the preapplication review process.
- G. Preapplication conferences are not public meetings, and are not typically open to the public. The Planning Director may limit attendance at such meetings.
- H. The Planning Director shall provide to the applicant and those who request a copy, a preapplication conference summary letter within 14 calendar days after the date of the

preapplication conference. The written summary shall do the following to the extent possible given the information provided by the applicant:

1. Summarize the proposed project.
  2. Identify the Review Authority, relevant approval criteria and development standards in the Poulsbo Municipal Code or other applicable codes, standards or requirements.
  3. Evaluate the submitted information the applicant offered to comply with the relevant code, standards or requirements. Identify specific additional information that is needed to respond to the relevant codes, standards or requirements, or is recommended to respond to other issues.
  4. Identify applicable application fees in effect at the time, with the disclaimer that fees may change.
  5. Identify information relevant to the application that may be in the possession of the City or other agencies of which the City is aware, such as:
    - a. Comprehensive plan map designation and zoning on and in the vicinity of the project subject to the application.
    - b. Physical development limitations, such as steep or unstable slopes, wetlands, water bodies, shorelines and other that may exist on and in the vicinity of the project subject to the application.
    - c. Those public facilities that will serve the property subject to the application, including water, sewer, roads, storm drainage, parks and schools, fire and relevant considerations, such as minimum access and fire flow requirements, and impact fees.
    - d. Other applications that have been approved or are being considered for land in the vicinity of the property subject to the proposed application that may affect or be affected by the proposed application.
  6. Confirm the application(s) and document(s) that will be necessary for counter complete application requirements. The Planning Director may waive application requirements that are clearly not necessary based on the nature of the proposed application, development, site or other factors. To the extent possible, the application requirements shall be identified in the preapplication summary letter.
- I. The preapplication summary letter provided by the City shall expire six months from the date the preapplication conference is held. Upon written request by the applicant 30 days prior to the expiration setting forth reasons for the request, the Planning Director may extend the validity of the preapplication comments by one additional six month period.

- J. More than one preapplication conference may be held on a proposed project, and may be required by the Planning Director at the conclusion of the initial pre-application conference.
  - 1. A second preapplication conference will be charged one-half the amount of the original preapplication conference fee.
  - 2. If a second preapplication is for a similar project as the initial preapplication conference, but on a different site, the full fee amount for preapplication conference will be charged.
- K. A counter complete application that the Planning Director finds is substantially similar to the subject of a preapplication conference must be submitted prior to the expiration set forth in Section 19.30.010.H.
- L. Once the preapplication comments have expired, the applicant must file a new request for a preapplication conference or receive approval of a preapplication waiver (if applicable) in order to submit a development application.

**19.30.020 Counter Complete Review.**

- A. Before accepting a Type II or III application, or applicant-initiated Type IV or V application, a determination that the application is counter complete shall be made. Counter complete review shall be made at a permit intake appointment with a Planning Department official.
- B. An application is counter complete if the permit application purports and appears to include the information identified in the preapplication conference summary letter, and the appropriate application(s) fee is included.
- C. No effort shall be made to evaluate the substantive adequacy of the information in the application at the counter complete review process.
- D. If the permit application is accepted as counter complete, the City shall initiate review for technically complete status.
- E. If the permit application is not accepted as counter complete, it shall immediately be rejected, and identify what is needed to make the application counter complete. The missing components will be identified at the appointment and followed up in writing by the City.

**19.30.030 Technically Complete Review.**

- A. Determination. Within 28 calendar days after receiving a counter complete Type II or III application or applicant-initiated Type IV and V application, the Planning Director shall provide a written determination to the applicant stating either: i) that the application is technically complete; or ii) that the application is not technically complete and what is necessary to make the application complete, as set forth in Section 19.30.030.C below.
1. A preliminary substantive review of the submitted application materials will be made by the City at this time to determine whether an application is technically complete. The preliminary substantive review will include, at a minimum, a review of the submitted application, drawing(s), studies and other materials, to the requirements and comments identified in the preapplication conference summary letter and applicable provisions of the PMC.
  2. If a determination of technical completeness or determination of incompleteness is not issued within 28 calendar days, the application shall be deemed complete at the end of the 28<sup>th</sup> day.
  3. The determination of technical completeness shall not preclude the Planning Director from requesting additional information or studies either at the time of determination of technical completeness or subsequently, if new information is required to complete review of the application or substantial changes in the permit application are proposed.
- B. Application content. An application is technically complete if it includes the following:
1. A completed application form signed and notarized by the owner(s) of the property or by a representative authorized to do so.
  2. All required information listed on the application form, and all information required per the relevant sections of the Poulsbo Municipal Code and/or identified as necessary in the preapplication review summary letter is included in the submitted drawings, required engineering documents, environmental documents and/or other materials.
    - a. The Planning Director may waive application requirements that are clearly not necessary with regard to a specific project and may modify application requirements based on the nature of the proposed application, development, site or other factors. To the extent possible, the application requirements shall be identified in the preapplication summary letter.
  3. A copy of the preapplication review summary letter, or a preapplication waiver if one was approved.
  4. If required, a neighborhood meeting has been held, and a copy of the attendance and received comments summary.

5. A current Kitsap County assessor map(s) showing the subject property(ies) within a radius of 300' (including full parcels if partially within the 300' radius); a list of the names and addresses of owners of all properties within that radius; and 3 sets of mailing labels with the names and addresses of owners of all properties within that radius.
- C. Incomplete application. If the Planning Director decides an application is not technically complete within the time allowed in Section 19.30.030.A, the Planning Director shall send the applicant a written statement indicating that the application is incomplete based on a lack of information, incomplete information or incorrect information, and listing what information or revisions are required to make the application technically complete.
1. An applicant shall have no more than a total of 90 calendar days to submit the identified information. If at the end of a total 90 calendar days, the identified information has not been submitted to the satisfaction of the Planning Director, the application shall be closed, deemed null and void and no more than 90% of the application fees returned to the applicant.
  2. When the required information for an incomplete application is received by the City, the Planning Director shall notify the applicant within 18 calendar days of receipt of the information of whether the application is now technically complete or what additional information remains needed.
- D. Upon determining an application is technically complete, a Notice of Application shall be issued and distributed as set forth in Section 19.50.020.

## **19.40 Application Review Procedures.**

**19.40.010 Purpose.** The purpose of this section is to provide an explanation of each of the procedural steps necessary for each permit application type.

### **19.40.020 Type I Permit Applications.**

- A. Decisions on Type I permit applications are made by the Review Authority as set forth in Table 19.20.020.
- B. A Type I permit application decision shall be made within 18 calendar days after the date the application or request is accepted by the City; provided that if new information is requested by the City or introduced by the applicant after submittal, an additional 7 calendar days may be utilized by the City to issue the decision.
- C. Decision Criteria. The decision of the Review Authority shall be based on the decision criteria for the application set forth in the appropriate development regulations for the use

or activity. The decision shall include any conditions necessary to ensure consistency with the applicable development regulations.

- D. Record. The Review Authority shall prepare a written record in each case and may be in the form of a staff report, letter, notice of decision, or other written document indicating approval, approval with conditions, or denial. The written record/decision shall be distributed to the parties of record. See PMC 16.09 for decisions on Shoreline Exemptions.
- E. Appeal. Type I decisions may be appealed to the Hearing Examiner as provided in Section 19.70.010. All decisions are final upon expiration of the appeal period, or, if appealed, upon the date of issuance of the Hearing Examiner's final decision on the appeal.

**19.40.030 Type II Permit Applications.**

- A. Decisions on Type II permit applications are made by the Review Authority as set forth in Table 19.20.020.
- B. Decision Criteria. The decision of the Review Authority shall be based on the decision criteria for the application set forth in the appropriate development regulations for the use or activity. The decision shall include any conditions necessary to ensure consistency with the applicable development regulations.
- C. Record. The decision of the Review Authority shall be prepared for each Type II permit application, shall be in the form of a staff report, and indicate approval, approval with conditions, or denial. A copy of the staff report shall be made available to the applicant, to any parties requesting it, posted to the City's website, and transmitted to the Review Authority at least 5 calendar days prior to issuing a Notice of Decision. A Notice of Decision shall be issued and distributed as provided for in Section 19.50.060.
- D. Appeal. Type II decisions may be appealed to the Hearing Examiner as provided in Section 19.70.010. All decisions are final upon expiration of the appeal period, or if there is an appeal, upon issuance of the Hearing Examiner's final decision on the appeal.

**19.40.040 Type III Permit Applications.**

- A. Decisions on Type III permit applications are made by the Review Authority as set forth in Table 19.20.020.
- B. Decision Criteria. The decision of the Review Authority shall be based on the decision criteria for the application set forth in the appropriate development regulations for the use or activity. The decision shall include any conditions necessary to ensure consistency with the applicable development regulations.

- C. Record. A written staff report shall be issued by the Planning Department at least 7 calendar days prior to the date of the Planning Commission meeting. The staff report shall include an analysis of the application, including SEPA review, and provide a recommendation on the application including any conditions of approval. All written comments received to date prior to the issuance of the staff report shall be included. A copy of the staff report shall be made available to the applicant, to any parties requesting it, posted to the City's website, and transmitted to the Planning Commission and Review Authority.
- D. Planning Commission review. The Planning Commission shall review all Type III applications at a public meeting and provide a recommendation to the Review Authority. The Planning Commission may recommend that the Review Authority approve or approve with modifications the application if it complies with the applicable decision criteria. In all other cases, the Planning Commission shall recommend denial of the proposal. The Planning Commission's recommendation shall be in writing and shall contain the following: 1) the recommendation of the Planning Commission; 2) any conditions included as part of the Planning Commission recommendation; and 3) findings of fact upon which the recommendation was based upon, and the conclusions derived from those facts.
- E. Public Hearing. The Review Authority shall hold an open record public hearing on Type III permit applications. The open record public hearing shall proceed as follows:
1. Notice of the hearing shall be given as provided in Section 19.50.030.
  2. Any person may participate in the public hearing by submitting written comments prior to or at the hearing, or by providing oral testimony and exhibits at the hearing.
  3. The Planning Director shall transmit to the Review Authority a staff report and exhibits on the application, including all written comments received and information reviewed by or relied upon by the Planning Director, at least 7 calendar days prior to the hearing. The file shall also include information to verify that the requirements for notice to the public have been met. The Planning Commission findings, conclusions and recommendation shall also be transmitted.
  4. The Review Authority shall create a complete record of the public hearing, including all exhibits introduced at the hearing and an electronic sound recording of each hearing.
  5. At the conclusion of the hearing, the Review Authority shall announce one of the following:
    - a. That the hearing is continued. If the hearing is continued to a place, time and date certain, then additional notice of the continued hearing is not

required to be made. If the hearing is not continued to a place, date, and time certain, then notice of the continued hearing shall be given as though it was the initial hearing.

- b. That, the public record is held open to a date and time certain. The Review Authority shall state where additional written evidence and testimony can be sent, and shall announce any limits on the nature of the evidence that will be received after the oral testimony portion the hearing.
- c. For Hearing Examiner decisions, that the application(s) is/are taken under advisement, the record is closed, and a final decision will be issued as set forth in Section 19.40.040.F.
- d. For City Council decisions, that the application(s) is/are approved, approved with conditions, or denied, together with a brief summary of the basis for the decision and that a written decision supported by findings and conclusions will be issued as set forth in Section 19.40.040.G.

F. Hearing Examiner Decisions on Type III. The Hearing Examiner shall make the final decision after receiving the recommendation of the Planning Commission, and after holding an open record public hearing and receiving any public testimony.

- 1. The Hearing Examiner shall approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with the applicable decision criteria. The Hearing Examiner may include conditions to ensure a proposal conforms to the relevant decision criteria.
- 2. Prior to issuing a decision, if the Hearing Examiner determines that information, analysis, revision or other material needed to satisfy the provisions of relevant law or code requirements have not been provided, the Examiner may remand the matter for the addition of the requisite information, analysis, revision or other material.
  - a. If the Hearing Examiner remands a matter for additional information, analysis, revision or material, the Hearing Examiner shall retain jurisdiction in order to review the adequacy of the information, analysis, revision or material submitted in response to the remand. The remand order shall expressly state that jurisdiction is retained and what information, analysis, revisions or material is to be provided, and may identify a date when it is to be submitted.
  - b. A copy of the information, analysis, revision or other material filed with the Hearing Examiner in response to a remand shall also be made available to all parties to the proceeding. The parties shall have an opportunity to review and file rebuttal to the information, analysis, revision or other material filed in response to a remand.
- 3. In all other cases, the Hearing Examiner shall deny the application.

4. The Hearing Examiner shall issue a written report supporting the decision within 14 calendar days following the close of the record. The decision shall be issued and distributed as provided for in Section 19.50.060 Notice of Decision. The decision shall include:
  - a. The decision of the Hearing Examiner.
  - b. Any conditions included as part of the decision.
  - c. Findings of facts for which the decision, including any conditions, was based and the conclusions derived from those facts.
5. Request for Reconsideration. Any party of record may file a written request with the Hearing Examiner for reconsideration within 14 calendar days of the date of the written decision. The request shall explicitly set forth alleged errors of procedure, law, or fact. No new evidence may be submitted in support of or in opposition to a request for reconsideration. The Hearing Examiner shall act within 14 calendar days after the filing of the request for reconsideration by either denying the request or issuing a revised decision. The decision on the request for reconsideration and/or the revised decision shall be sent to all parties of record.

G. City Council Decisions on Type III. The City Council shall make the final decision after receiving the recommendation of the Planning Commission, and after holding an open record public hearing and receiving any public testimony.

1. The City Council shall approve a project, or approve with modifications if the applicant has demonstrated that the proposal complies with the applicable decision criteria. The City Council may, based on the record, include conditions to ensure a proposal conforms to the relevant decision criteria.
2. Prior to issuing a decision, if the City Council determines that additional information, analysis, revision or other material needed to satisfy the provisions of relevant law or code requirements have not been provided, the City Council may remand the matter for the addition of the requisite information, analysis, revision or other material.
  - a. If the City Council remands a matter for additional information, analysis, revision or material, the City Council shall retain jurisdiction in order to review the adequacy of the information, analysis, revision or material submitted in response to the remand. The remand order shall expressly state that jurisdiction is retained and what information, analysis, revisions or material is to be provided, and may identify a date when it is to be submitted.

- b. A copy of the information, analysis, revision or other material filed with the City Council in response to a remand shall also be made available to all parties to the proceeding. The parties shall have an opportunity to review and file rebuttal to the information, analysis, revision or other material filed in response to a remand.
  - 3. In all other cases, the City Council shall deny the application.
  - 4. The City Council decision shall be in writing and shall include findings and conclusions derived from those facts which support the decision of the Council, including any conditions. The City Council may by reference adopt some or all of the findings and conclusions of the Planning Commission.
  - 5. The decision shall be issued and distributed as set forth in Section 19.50.060 Notice of Decision.
- H. Appeal. Appeal of the Hearing Examiner decision or City Council decisions on Type III permit applications may be appealed to Kitsap County Superior Court as set forth in Section 19.70.020.

**19.40.050 Type IV Permit Applications.**

- A. Decisions on Type IV permit applications are made by the Review Authority as set forth in Table 19.20.020.
- B. Establishing the Docket for Comprehensive Plan Map, Policy or Text Amendments. RCW 36.70A provides that Comprehensive Plan amendments can occur no more than once a year with limited exceptions.
  - 1. Any interested person, property owner, citizen and City staff may submit a comprehensive plan map, policy or text amendment.
  - 2. Except as otherwise authorized by the Growth Management Act, the City will review all proposed Comprehensive Plan amendments in a single concurrent process occurring no more frequently than once a year.
  - 3. All applications for a Comprehensive Plan map, policy or text amendment must be received no later than November 15<sup>th</sup> annually. If November 15<sup>th</sup> falls on a weekend or holiday, then the deadline for filing shall be extended to the close of the next regular business day.
  - 4. Applications received after the due date will be added to the Comprehensive Plan docket for the following year's amendments.
  - 5. As applications for Comprehensive Plan amendments are received throughout the year, the Planning Director shall compile and maintain a list of all such proposed amendments. After the November 15<sup>th</sup> filing deadline and any necessary

preapplication conferences are held, the Planning Director shall present the list to the City Council for consideration. The City Council shall review the list at a public meeting and shall determine, which, if any, of the proposed amendments shall be processed further.

- a. When selected by the City Council for further processing, a Comprehensive Plan amendment shall be processed as provided for Type IV application permits.
  - b. When not selected by the City Council for further processing, the proposed amendment shall be removed from the docket, and any amendment fee submitted (not including any preapplication fees) shall be refunded. Resubmittal of an application removed from the docket may be made at the next annual review cycle.
6. Proposed Comprehensive Plan amendments that are denied after the completion of the Type IV permit application process may not be resubmitted to the docket for a period of two annual review cycles
- C. Amendments to Development Regulations. Amendments to the City's development regulations shall be processed as a Type IV permit application and may be initiated at any time, unless a Comprehensive Plan amendment is necessary.
- D. Public Participation Program for all Type IV applications. This subsection is intended to meet the requirements of RCW 36.70A.140 that a public participation program be established and broadly disseminated identifying procedures providing for early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans.
1. Purpose. In order to provide for early and continuous public participation, the following public participation goals have been established for Type IV permit applications:
    - a. Provide the public with timely information, an understanding of the process, and opportunities to review and comment on Type IV permit applications, and have these comments forwarded to the City Planning Commission and City Council.
    - b. Ensure that information about the application is provided to the public early in the process and at regular intervals thereafter, to maximize public awareness and participation.
    - c. Incorporate public comment into the City's review process prior to significant procedural milestones or decision making.
    - d. Consult and consider recommendations from neighboring jurisdictions, federal and state agencies, and Native American tribes.

2. **Public Participation Plan.** A public participation plan will be developed for each Type IV permit and will be broadly disseminated by posting it on the City's website and a summary of the public participation plan will be included in the amendment application's Notice of Application. The Notice of Application shall be issued and distributed as set forth in Section 19.50.020.
3. **Information Availability.** The City shall undergo the following procedures to make information available to the public for Type IV permit applications:
  - a. All documents related to a Type IV permit application will be available for public review. Hard copy of all documents will be available for review at Poulsbo City Hall. Copies will be provided at a reasonable cost.
  - b. The primary clearinghouse for information related to Type IV permit applications is the City website, [www.cityofpoulsbo.com](http://www.cityofpoulsbo.com), where the proposed Type IV applications, meeting dates, updates on process, Notice of Application, environmental review, Notice of Public Hearing, staff reports, findings of fact, and Notice of Decision will be posted. An email link for questions or comments will be provided at the website.
  - c. Publication of official notices, such as Notice of Application, environmental review, public hearing notices, and ordinance summary, will be made in the City's official newspaper. A hard copy of these notices will also be posted at the Poulsbo Post Office, Poulsbo Library, and Poulsbo City Hall notice boards.
  - d. A mailing list of interested persons and organizations to receive notices regarding Type IV applications will be maintained. Notice to the mailing lists will be provided either by mail or email.
  - e. Planning Commission and City Council meetings and hearings are recorded. Recordings are available for public review or purchase.
  - f. The local news media will be notified of Type IV permit applications and City contact information will be provided. The City will provide updates at appropriate intervals for Type IV permit applications that require lengthy review timelines.
4. Comments on Type IV permit applications may be provided to the City at any time during the review process. Written comments will be taken by the City and forwarded to the Planning Commission and City Council as part of the record.
5. Upon initial public release of a Type IV permit application, an anticipated review timeline will be developed, distributed with the Notice of Application and posted on the City's website. The timeline shall identify the anticipated dates of application procedural milestones, as well as workshop, meeting and hearing dates, with the caveat that workshop, meeting and hearing dates may be added, extended or modified by the Planning Commission or City Council during the review process.

6. Additional opportunities for public engagement, such as open houses, workshops, advisory committees, community online surveys, or other public information gathering techniques may be incorporated in any Type IV permit applications as deemed appropriate by the City.
- E. Record. A written staff report shall be issued by the Planning Director at least 7 calendar days prior to the date of the Planning Commission hearing. The staff report shall include an analysis of the application, including SEPA review, and provide a recommendation on the application including any conditions of approval. All written comments received to date prior to the issuance of the staff report shall be included. A copy of the staff report shall be made available to the applicant, to any parties requesting it, posted to the City's website, and transmitted to the Planning Commission and City Council.
  - F. Planning Commission Review and Recommendation. The Planning Commission shall review all Type IV applications at a public hearing and provide a recommendation to the City Council. The Planning Commission may hold any number of study sessions or workshops on the application prior to the public hearing. At the close of the public hearing, the Planning Commission may recommend that the City Council approve, approve with modifications, or denial of the application. The Planning Commission's recommendation shall be in writing and shall contain the following: 1) the recommendation of the Planning Commission; 2) any conditions included as part of the recommendation; and 3) findings of fact upon which the recommendation, including any conditions, was based and the conclusions derived from those facts. The Planning Commission recommendation, conclusion and findings of fact, and any exhibits submitted during the public hearing, shall be transmitted to the City Council.
  - G. Public Hearing. The Planning Commission and the City Council shall both hold an open record public hearing on Type IV applications. The open record public hearings shall proceed as follows:
    1. Notice of each hearing shall be given as provided in Section 19.50.030.
    2. Any person may participate in the public hearing by submitting written comments prior to or at the hearing, or by providing oral testimony and exhibits at the hearing.
    3. The Planning Commission and City Council shall create a complete record of the public hearing, including all exhibits introduced at the hearing and an electronic sound recording of each hearing.
    4. At the conclusion of the hearing, the Planning Commission or City Council shall announce one of the following:
      - a. That the hearing is continued. If the hearing is continued to a place, time and date certain, then additional notice of the continued hearing is not

required to be made. If the hearing is not continued to a place, date, and time certain, then notice of the continued hearing shall be given as though it was the initial hearing.

- b. That, the public record is held open to a date and time certain. It shall be stated where additional written evidence and testimony can be sent, and shall announce any limits on the nature of the evidence that will be received after the oral testimony portion the hearing.
- c. That the public hearing is closed and initiate deliberations.

H. City Council Review and Decision on Type IV. The City Council may hold any number of study sessions or workshops on the application prior to its open record public hearing. The City Council shall make the final decision after receiving the recommendation of the Planning Commission. The City Council shall approve, approve with modifications, or deny the application.

- 1. Conditions. The City Council may, based on the record, include conditions to ensure a proposal conform with relevant decision criteria.
- 2. Decision. The City Council decision shall be in writing and shall include findings and conclusions derived from those facts which support the decision of the Council, including any conditions. The City Council may by reference, adopt some or all of the findings and conclusions of the Planning Commission.
- 3. The decision shall be issued and distributed as set forth in Section 19.50.060 Notice of Decision.

I. Emergency Amendments. Emergency amendments to the Comprehensive Plan are allowed pursuant to RCW 36.70A.130(2)(b). Emergency amendments can be considered outside of the annual review cycle and must be based upon an event, circumstance or situation that constitutes an immediate threat to the public health, safety or welfare. One public hearing before the City Council is required to adopt an emergency amendment to the Comprehensive Plan and must be publicly noticed 10 calendar days before the hearing.

J. Appeal. City Council decisions on Type IV permit applications may be appealed to the Central Puget Sound Growth Management Hearings Board as set forth in Section 19.70.030.

**19.40.060 Type V Permit Applications.**

- A. Applicability. A property owner or authorized agent may request the City consider releasing a concomitant agreement that has been recorded on a legal parcel or parcels of land.
- B. Submittal Requirements. The property owner or authorized agent shall submit to the City a completed application form provided by the City, signed by the owner(s) of property subject to the concomitant agreement, and accompanied by a copy of the valid concomitant agreement and legal description of the property.
- C. Complete Application. Determination of a complete application shall be as set forth in Section 19.30.020 and 19.30.030.
- D. Review Authority. The City Council is the Review Authority for the release of legislatively enacted valid concomitant agreements.
- E. Noticing. Upon acceptance of a complete application, the Planning Director will issue a Notice of Application, to be distributed consistent with Section 19.50.020. A public hearing notice may be combined with the Notice of Application, if a date to hold a public hearing before the City Council has been identified. Noticing of this public hearing will be made as set forth in Section 19.50.030.
- F. Record. A written staff report shall be issued by the Planning Director at least 7 calendar days prior to the date of the City Council hearing. The staff report shall include an analysis of the application, and provide a recommendation on the application including any conditions of approval. All written comments received to date prior to the issuance of the staff report shall be included. A copy of the staff report shall be made available to the applicant, to any parties requesting it, posted to the City's website, and transmitted to the City Council.
- G. Public Hearing. The City Council shall hold an open record public hearing on Type V permit applications. The open record public hearing shall proceed as follows:
  - 1. Any person may participate in the public hearing by submitting written comments prior to or at the hearing, or by providing oral testimony and exhibits at the hearing.
  - 2. The City Council shall create a complete record of the public hearing, including all exhibits introduced at the hearing and an electronic sound recording of each hearing.
  - 3. At the conclusion of the hearing, the City Council shall announce one of the following:
    - a. That the hearing is continued. If the hearing is continued to a place, time and date certain, then additional notice of the continued hearing is not required to be made. If the hearing is not continued to a place, date, and

time certain, then notice of the continued hearing shall be given as though it was the initial hearing.

- b. The public record is held open to a date and time certain. It shall be stated where additional written evidence and testimony can be sent, and shall announce any limits on the nature of the evidence that will be received after the oral testimony portion the hearing.
- c. Close the public hearing and initiate deliberations.

H. Decision Criteria. In order to approve the release or amendment of the concomitant agreement, the City Council shall be required to make the following findings:

- 1. Development of the site would be consistent with current development regulations and comprehensive plan goals and policies.
- 2. Adequate public/private services are available to support development of the site.
- 3. Development would not unreasonably impact nearby property development which has relied upon the covenant commitments.
- 4. Future development under current zoning will be consistent with existing and planned development.

I. City Council Decision. The City Council, at the conclusion of the public hearing or as soon thereafter as the City Council business permits, will issue a decision to approve or deny the release or amendment of the concomitant agreement. Where the concomitant agreement was entered into in connection with a rezone of property, the decision shall be in the form of an ordinance. A Notice of Decision shall be issued and distributed as set forth in Section 19.50.060.

J. Recording. If the release or amendment of a concomitant agreement is approved, the City and the applicant shall execute an appropriate agreement or instrument releasing the concomitant agreement and the same shall be recorded in the records of Kitsap County.

## **19.50 Public Notices.**

**19.50.010 Purpose.** The purpose of this Section is to maximize public input into the development process by providing for broad notice of development applications, meetings, hearings, and decisions. This Section establishes the procedures for the giving of public notices with development applications.

### **19.50.020 Notice of Application.**

- A. Timing. A Notice of Application for Type II, III, applicant-initiated IV, and V permit applications shall be provided within 14 calendar days of the technically complete determination. A Notice of Application issuance for City initiated Type IV applications shall be at such time as determined appropriate by the Planning Director.
- B. Content. The Notice of Application shall include the following:
1. The file number assigned.
  2. The date of counter complete application, date of notice of technical completion, and the date of the notice of application.
  3. The description of the proposed project, a list of other permits included with the application, and if applicable, a list of requested studies.
  4. The name of the applicant or applicant's representative.
  5. The name of the property owner.
  6. A map showing the subject property in relation to other properties.
  7. The zoning of the proposed project.
  8. Identification of permits not included with the application, to the extent known by City staff.
  9. Identification of existing environmental documents that evaluate the proposal.
  10. A statement that the minimum public comment period shall be 14 calendar days.
  11. A statement of the rights of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision and any appeal rights.
  12. The designation of the Review Authority.
  13. The date, time, place and type of hearing, if known and scheduled at the date of notice of application.
  14. A statement of the preliminary determination, if one has been made at the time of the notice, and of those development regulations that will be used for project mitigation and which regulations the application appears to comply with.
  15. The date, place and times where information about the application may be examined and the name and contact information of the City representative to contact about the application.

16. Any other information determined appropriate by the City, such as the City's SEPA threshold determination consistent with PMC 16.04, if complete at the time of issuance of the Notice of Application.

C. Distribution.

1. Publication. A summary Notice of Application shall be published in a newspaper of general circulation. The summary Notice of Application shall include the following:
  - a. Project name and location.
  - b. Description of proposed project.
  - c. Type of permit(s) required.
  - d. Minimum comment period dates.
  - e. Location where the technically complete application and full Notice of Application may be reviewed.
2. Mailing. Mailing of the full Notice of Application shall be made to:
  - a. Owners as identified by the Kitsap County Assessor of property within 300' of the project site.
    - i. The records of the Kitsap County Assessor office shall be used for determining the property owner of record.
    - ii. If the applicant is the owner of immediately adjacent property, notice under this section shall be given to property owners 300' from any portion of the adjacent property owned by the applicant.
  - b. Applicant and applicant's representative.
  - c. Any person who has requested such a notice.
  - d. Agencies with jurisdiction.
  - e. Other persons, agencies or organizations which the Planning Director believes may be affected or interested in the proposed project.
  - f. When email addresses are known for parties identified to receive a Notice of Application, an email with the Notice of Application attached may suffice to meet the mailing requirement.
3. Posting. The full Notice of Application shall be posted at designated locations at City Hall, the Poulsbo Post Office, and the Poulsbo Library. The Notice of Application shall also be posted on the City's website.

D. Public Comment.

1. For Type II permit applications, the Notice of Application shall state that the minimum public comment period shall be 14 calendar days, and that no decision shall be issued prior to the expiration of the minimum public comment period.
2. For Type III, IV and V permit applications, the Notice of Application shall state that the minimum public comment period shall be 14 calendar days, and that

public comments will be accepted at any time prior to the closing of the open record hearing.

3. Public comments should be as specific as possible and submitted to the City as early in the review of an application as possible.
  4. The Planning Director may accept and respond to public comments at any time prior to making the Type II, III, IV or V recommendation or decision. Any comments received shall be forwarded to the Review Authority, applicant or applicant's representative and any person who requests a copy.
  5. If the optional Determination of Non-Significance (DNS) process is used as described in PMC 16.04 and WAC 197-11-355, the Planning Director shall combine the Notice of Application and DNS comment periods. When a final DNS is issued, there is no additional SEPA comment period.
  6. Public comments may be mailed, emailed, personally delivered, or sent by facsimile to the City.
- E. Integration of Notice.
1. SEPA. An issuance of a Determination of Significance (DS) and the Optional DNS process may be combined with the issuance of the Notice of Application, as set forth in RCW 36.70B.110 and PMC 16.04.
    - a. If the Optional DNS process is not utilized, the responsible official may not issue a SEPA threshold determination until the expiration of the minimum public comment period identified in the Notice of Application.
  2. Open record public hearing. When required, the public hearing notice as set forth in Section 19.50.030 may be integrated with the Notice of Application, provided that the public hearing must be held no earlier than 15 calendar days after the issuance of the Notice of Application.

**19.50.030 Notice of Public Meeting.**

- A. No later than 7 calendar days before the date of the public meeting for Type III permit application before the Planning Commission, a Notice of Public Meeting shall be issued by the City and include the following information:
1. The date of the public meeting and that the meeting is before the Planning Commission.
  2. A statement that that this is a public meeting, but there will be an opportunity to provide written and verbal testimony to the Planning Commission regarding the proposed project.

3. The time and place of the meeting.
  4. Identification of property and application(s) under review.
  5. Brief description of the proposed project.
  6. Identification of review authority.
  7. Information on examination of file and City contact information.
- B. The Notice of Public Meeting will be mailed to:
1. Owners, as identified by the Kitsap County Assessor, of property within 300' of the project site.
    - a. The records of the Kitsap County Assessor office shall be used for determining the property owner of record.
    - b. If the applicant is the owner of immediately adjacent property, notice under this section shall be given to property owners 300' from any portion of the adjacent property owned by the applicant.
  2. Applicant and applicant's representative.
  3. Any person who established themselves as a party of record, has requested such a notice, or submitted written comments on the application.
  4. Agencies with jurisdiction.
  5. Other persons, agencies or organizations which the Planning Director believes may be affected or interested in the proposed project.

**19.50.040 Notice of Public Hearing.**

- A. Issuance. No later than 14 calendar days before the date of a public hearing for a Type III, IV or V permit application, a Notice of Public Hearing shall be issued by the City and include the following information:
1. The date of the public hearing, and who the public hearing is before (e.g. Hearing Examiner, Planning Commission or City Council).
  2. The time and place of the hearing.
  3. Identification of property and application(s) under review.
  4. Brief description of the proposed project.

5. A statement of any threshold determination made under SEPA (RCW 43.21C).
6. Map depicting the subject property in relation to other properties.
7. The place and time where information about the application may be examined, and the name and information of the City representative to contact about the application.
8. A statement that the notice is intended to inform potentially interested parties about the hearing and to invite interested parties to appear or provide written statement at the public hearing.
9. A statement of when and where a staff report will be available for review.

**B. Distribution.**

1. **Publication.** The Notice of Public Hearing shall be published in a newspaper of general circulation.
2. **Mailing.** Mailing of the Notice of Public Hearing shall be made to:
  - a. Owners, as identified by the Kitsap County Assessor, of property within 300' of the project site.
    - i. The records of the Kitsap County Assessor office shall be used for determining the property owner of record.
    - ii. If the applicant is the owner of immediately adjacent property, notice under this section shall be given to property owners 300' from any portion of the adjacent property owned by the applicant.
  - b. Applicant and applicant's representative.
  - c. Any person who established themselves as a party of record, has requested such a notice, or submitted written comments on the application.
  - d. Agencies with jurisdiction.
  - e. Other persons, agencies or organizations which the Planning Director believes may be affected or interested in the proposed project.
  - f. When email addresses are known for parties identified to receive a Notice of Public Hearing, an email with the Notice attached may suffice to meet the mailing requirement.
3. **Posting.**
  - a. The Notice of Public Hearing shall be posted at designated locations at City Hall, the Poulsbo post office, and the Poulsbo library. The Notice of Public Hearing shall also be posted on the City's website.
  - b. The subject site shall be posted with at least one copy of the Notice of Public Hearing on a public notice board as set forth in Section 19.50.050.

- C. Responsibility for Notice. The Planning Director is responsible for providing published legal notices, mailed notice, posted notice in public buildings and on the City's website. The applicant is responsible for complying with on-site Notice of Public Hearing posting requirements as set forth in Section 19.50.050.

**19.50.050 Public Hearing Board Posting.**

- A. Public Hearing Board posting shall be made for permit applications requiring a public hearing. The Public Hearing Notice Board shall include the content as set forth in Section 19.50.030.A and shall be placed by the applicant.
- B. One Public Hearing Board is required and shall be placed on the site for maximum visibility from a public street or public area. Additional notice boards may be required by the Planning Director when:
  - 1. The site does not abut a public street.
  - 2. The site is large and abuts more than one public street.
  - 3. The Planning Director determines that additional notice boards are necessary to provide adequate public notice.
- C. An affidavit of posting, which shall include an attached photo of the posted notice, date and location of posting, and the notarized signature of the person responsible for the posting, shall be submitted to the Planning Director at least 14 days prior to the public hearing. If an affidavit is not filed as required, any scheduled hearing or date by which the public may comment on the application shall be postponed or extended until there is compliance with the notice requirement.
- D. A Public Hearing Board shall be maintained in good condition by the applicant.
- E. A Public Hearing Board shall remain posted throughout the public hearing process until the hearing is closed and complete. Removal of the board prior to the end of the required time period shall cause the application to be placed on hold until the hearing board is replaced and remains in place.
- F. A Public Hearing Board shall be provided by the City for a reasonable fee, or be constructed and installed in accordance with specifications provided by the Planning Director.
- G. Removal of the Public Notice Board shall be made by the applicant no later than 7 calendar days from the issuance of Notice of Decision.

**19.50.060 Notice of Decision.**

- A. Within 7 calendar days after a final decision on a Type I, II, III, IV or V permit application has been made by the applicable Review Authority, a Notice of Decision shall be issued.
- B. Content. The Notice of Decision shall include the following information:
1. The project name, file number, permit application type, date of decision, date of the Notice of Decision issuance, and Review Authority.
  2. The name of the application and a description of the project.
  3. The site location and map.
  4. The applicable municipal code criteria for review.
  5. A statement of the Review Authority conclusion and decision.
  6. A statement that the decision and any SEPA determination are final.
  7. A statement on that the decision may be appealed and a brief description of appeal procedures.
  8. A statement of that the complete case file, including conditions of approval, is available for review. The Notice shall list the place the case file is available and the name and contact information of the City representative to contact about reviewing the case file.
  9. For shoreline permits, a statement that construction shall not begin until 21 calendar days from the date of the Notice of Decision, or as otherwise set forth in PMC 16.09.
- C. Distribution.
1. The Notice of Decision shall be distributed to:
    - a. applicant, property owner, and/or authorized representative;
    - b. any persons who commented in writing or testified at a public hearing on the proposed project and which contact information is known;
    - c. any other parties of record.
  2. When email addresses are known for parties identified to be mailed a Notice of Decision, an email with the Notice of Decision attached may suffice to meet this requirement.
  3. The Notice of Decision may be distributed to other persons, agencies or organizations which the Planning Director believes may be affected or interested in the permit application.

4. Posting. The Notice of Decision shall be posted at designated locations at City Hall, the Poulsbo post office, and the Poulsbo library. The Notice of Decision shall also be posted on the City's website.

**19.50.070 Provisions for all Notices.**

- A. No proceeding of any procedure established in the Title shall be found to be invalid for failure to provide mailed notice as required by this Chapter, as long as the other methods of notice have met their respective requirements and there was a good faith attempt to comply with the mailed notice requirements.
- B. A sworn statement of noticing executed by the person who did the notice shall be evidence that the notice was distributed to parties listed or referenced in the statement.

**19.60 Neighborhood Meetings.**

- A. The purpose of neighborhood meetings is to:
  1. Provide a forum for interested individuals to meet with the applicant to learn about the proposal early in the review process.
  2. Provide an opportunity for meaningful public input.
  3. Provide a dialogue between the applicant, citizens, and City officials whereby issues can be identified.
  4. Provide an opportunity for applicants to address concerns generated by individuals and incorporate possible changes.
- B. A neighborhood meeting is required for the following:
  1. Conditional use permits and administrative conditional use permits when required by the Planning Director;
  2. Infill residential development;
  3. Planned residential developments;
  4. Planned mixed use developments;
  5. Preliminary plats;
  6. Master plans, master plan map overlay and/or master plan amendments;

7. Shoreline substantial development permit (major),
  8. Shoreline conditional use permit (major),
  9. Shoreline variance, and variances.
- C. When a neighborhood meeting is required, it shall be conducted by the applicant prior to submittal of a counter complete application. The applicant shall notify the City of the date and time of the meeting. At least one representative from City staff shall be in attendance. The applicant shall mail notice of the neighborhood meeting to the same individuals to whom notice is required for the Notice of Application Section 19.50.020 at least 14 calendar days in advance of the meeting. The applicant shall provide the City with an affidavit of mailing. A sign-in sheet shall be provided at the meeting, giving attendees the option of establishing themselves as a party of record. A summary of the attendees and comments received by the applicant shall be included in the application submittal.
- D. Applicants may choose to hold additional neighborhood meetings in order to provide an opportunity to address concerns generated, provide additional information, propose changes to plans, or provide further resolution of issues. If the applicant holds additional meetings, there is no specific requirement of notice or City attendance. However, the City shall make effort to attend meetings where appropriate and when the applicant has notified the City that additional meetings are taking place.

## **19.70 Decision Appeal Procedures.**

### **19.70.010 Appeal on Type I and Type II permit decision.**

- A. Overview. For Type I and Type II permit decisions, the Hearing Examiner shall act as the appellate body, conducting an open record appeal hearing when an administrative decision is appealed.
- B. Commencing an Appeal. Type I and II decisions may be appealed as follows:
1. A party of record may appeal the decision.
  2. A party of record appealing a Type I or II decision must submit a completed written appeal which sets forth:
    - a. Facts demonstrating that the person is adversely affected by the decision.
    - b. A concise statement identifying each alleged error of fact, law, or procedure, and the manner in which the decision fails to satisfy the applicable decision criteria.
    - c. The specific relief requested.

- d. Any other information reasonably necessary to make a decision on the appeal.
3. The written appeal, and the appeal fee and deposit must be received by the Poulsbo Planning Department no later than 4:30 p.m. on the 14th calendar day following the date the Notice of Decision was issued.
  4. The Planning Director shall review a submitted appeal and reject an appeal which fails to meet all the requirements of this Section.
- C. Notice of Open Record Appeal Hearing before Hearing Examiner. If a Type I or II decision is appealed, a open record appeal hearing before the City Hearing Examiner shall be set and Notice of the Appeal Hearing shall be provided to all parties of record no less than 14 calendar days prior to the date on which the Hearing Examiner will hold the appeal hearing. The Notice of Appeal Hearing shall include the following:
1. Name of the approved project under appeal.
  2. Name of the appellant.
  3. The street address of the subject property and a description in nonlegal terms sufficient to identify its location.
  4. A brief description of the administrative decision which is being appealed.
  5. The date, time and place of the open record appeal hearing before the Hearing Examiner.
- D. Hearing Examiner Public Hearing on Appeal.
1. The Hearing Examiner shall conduct an open record hearing on a Type I or Type II decision appeal. Notice of the appeal hearing shall be given as provided in Section 19.70.0790.B.
  2. The appellant, applicant, owner(s) of property subject to the application, and the City shall be designated parties to the appeal. Only designated parties may participate in the appeal hearing by presenting testimony or calling witnesses to present testimony and by providing exhibits.
  3. Interested persons, groups, associations, or other entities who have not appealed may participate only if called by one of the parties to present information, provided that the Hearing Examiner may allow nonparties to present relevant testimony if allowed under the Hearing Examiner's rules of procedure.

4. The Hearing Examiner shall create a complete record of the public hearing, including all exhibits introduced at the hearing and an electronic sound recording of each hearing.
- E. Hearing Examiner Decision on Appeal.
1. Within 14 calendar days after the close of the record for the Type I or II decision appeal, the Hearing Examiner shall issue a written decision to grant, grant with modifications, or deny the appeal.
  2. The decision on appeal shall be mailed to all parties of record.
  3. When making the decision, the Hearing Examiner shall give substantial weight to the decision of the Review Authority.
  4. The Hearing Examiner's decision shall be made upon whether the appellant has carried the burden of proving that the Type I or Type II decision is not supported by a preponderance of the evidence or was clearly erroneous.
- F. Request for Reconsideration.
1. Any designated party to the appeal who participated in the hearing may file a written request with the Hearing Examiner for reconsideration within 14 calendar days of the date of the Hearing Examiner's decision.
  2. The request shall explicitly set forth alleged errors of procedure or fact.
  3. The Hearing Examiner shall act within 14 calendar days after the filing of the request for reconsideration by either denying the request or issuing a revised decision.
  4. The decision on the request for reconsideration and/or issuing a revised decision shall be sent to all parties of record.
- G. Hearing Examiner Appeal Decision. The Hearing Examiner's decision on Type I and II appeals may be appealed to the City Council as provided for in Section 19.70.020
1. The Planning Director shall mail a Notice of Appeal Decision to all parties of record within 7 calendar days of the Hearing Examiner issuance of an appeal decision. The Notice of Appeal Decision shall include at a minimum the following:
    - a. Name of the approved project under appeal.
    - b. The street address of the subject property and a description in non-legal terms sufficient to identify its location.
    - c. A brief description of the appeal decision.
    - d. The date of the Notice of Appeal Decision.

**19.70.020 Appeal to City Council on Hearing Examiner Type I and II permit appeal decisions, and Type III Hearing Examiner decisions.**

- A. Overview. All decisions of the Hearing Examiner on Type I and II appeals, and all decisions of the Hearing Examiner on Type III permits may be appealed to the City Council. The City Council will make a final decision on such matters in a closed record appeal proceeding in which no new evidence may be submitted.
- B. Commencing an Appeal. Hearing Examiner decisions on Type I and II appeals and on Type III decisions by the Hearing Examiner may be appealed as follows:
1. Who May Appeal. The following parties may appeal:
    - a. The applicant.
    - b. The owner(s) of property subject to the application.
    - c. City staff.
    - d. In the case of Type I or II decision, any party who appealed the department director's decision to the Hearing Examiner.
    - e. In the case of Type III decision, any person who established themselves as a party of record.
  2. A person appealing a Hearing Examiner decisions on Type I and II appeals and on Type III decision by the Hearing Examiner shall submit a completed appeal form which sets forth:
    - a. Facts demonstrating that the person is adversely affected by the decision.
    - b. A concise statement identifying each alleged error of fact, law, or procedure, and the manner in which the decision fails to satisfy the applicable decision criteria.
    - c. The specific relief requested.
    - d. Any other information reasonably necessary to make a decision on the appeal.
  3. The written appeal, and the appeal fee and deposit must be received by the Poulsbo Planning Department no later than 4:30 p.m. on the 14th calendar day following the expiration of the Hearing Examiner's reconsideration period.
  4. The Planning Director shall review a submitted appeal and reject an appeal which fails to meet all the requirements of this Section
- C. Closed Record Appeal Proceeding.
1. Notice of the closed record appeal proceeding shall be given as follows:
    - a. A closed record appeal proceeding before the City Council shall be scheduled and the Notice of the Closed Record Appeal Proceeding shall be provided to all parties of record no less than 14 calendar days prior to the date on which the City Council will hold the closed record appeal proceeding.

- b. The Notice of Closed Record Appeal Proceeding shall contain the following:
        - i. Name of the approved project under appeal.
        - ii. Name of the appellant.
        - iii. The street address of the subject property and a description in nonlegal terms sufficient to identify its location.
        - iv. A brief description of the Hearing Examiner decision which is being appealed.
        - v. The date, time and place of the closed record appeal proceeding before the City Council.
  - 2. The applicant, owner(s) of the property subject to the application, appellant, the applicable City department director, City attorney, or representatives of these parties may participate in the appeal proceeding.
  - 3. Any person entitled to participate may participate in the appeal proceeding by:
    - a. Submitting written argument on the appeal to the City Clerk no later than the date specified in the City Council's rules of procedure; and/or
    - b. Marking oral argument on the appeal to the City Council at the closed record appeal proceeding. Argument on the appeal is limited to information contained in the record developed before the Hearing Examiner and must specify the findings or conclusions which are the subject of the appeal, as well as the relief required from City Council.
  - 4. The City Council shall make an electronic sound recording of each appeal proceeding.
  - 5. Testimony or other evidence and information not presented to the Hearing Examiner shall not be considered. The decision by the City Council shall be made only on the basis of facts presented at the open record hearing before the Hearing Examiner.
- D. City Council Decision on Appeal.
- 1. The City Council may grant the appeal or grant the appeal with modifications if the appellant proves that the decision of Hearing Examiner is not supported by a preponderance of the evidence or is clearly erroneous. In all other cases, the appeal shall be denied. The City Council shall accord substantial weight to the decision of the Hearing Examiner.
  - 2. The City Council may impose conditions as part of the granting of an appeal or granting of an appeal with modification to ensure conformance with the criteria under which the application was made.
  - 3. The City Council shall adopt findings and conclusions which support its decision on the appeal.

4. A vote to grant the appeal or grant the appeal with modifications must be by a majority vote of the membership of the City Council. A tie vote shall be decided by the vote of the Mayor. Any other vote constitutes denial of the appeal.
  5. Notice of Decision on Appeal shall be provided as follows:  
The Planning Director shall mail a Notice of Appeal Decision to all parties of record within 7 calendar days of the City Council issuance of an appeal decision. The Notice of Appeal Decision shall include at a minimum the following:
    - i. Name of the approved project under appeal.
    - ii. The street address of the subject property and a description in non legal terms sufficient to identify its location.
    - iii. A brief description of the appeal decision.
    - iv. The date of the Notice of Appeal Decision.
- E. Final Decision. The City Council’s decision on an appeal from the Hearing Examiner on Type I and II appeals or Hearing Examiner decision on Type III permits is the City’s final decision. The City Council decision may be appealed to the Kitsap County Superior Court by filing a petition for review, within 21 days of the date the decision is issued, as provided in RCW 36.70C.040. No action to obtain judicial review may be commenced unless all rights of administrative appeal provided by this Section or state law have been exhausted.

**19.70.030 Appeal on Type III permit City Council decision.**

The action of the City Council on a Type III application may be appealed as provided under the Land Use Petition Act, Chapter 36.70C. Any such petition for review must be filed with Kitsap County Superior Court within 21 days of the date the decision is issued, as provided in RCW 36.70C.040, and the petition must meet all requirements set forth in said statute.

**19.70.040 Appeal on Type IV permit City Council decision.**

The action of the City Council on a Type IV proposal may be appealed by filing a petition with the Growth Management Hearings Board pursuant to the requirements set forth in RCW 36.70A.290. The petition must be filed within the 60-day time period set forth in RCW 36.70A.290(2).

**19.70.050 Appeal on Type V permit City Council decision.**

The action of the City Council on a Type V proposal may be appealed as provided under the Land Use Petition Act, Chapter 36.70C. Any such petition for review must be filed with Kitsap County Superior Court within 21 days of the date the decision is issued, as provided in RCW 36.70C.040, and the petition must meet all requirements set forth in said statute.

**19.70.060 Appeal of Shoreline Master Plan amendments and permit decisions.**

- A. Appeal of shoreline permit decisions shall exhaust all administrative appeals available with the City as set forth in Section 19.70. Appeals of the City’s final decision on

shoreline permit decisions may then be made to the Shoreline Hearings Board, pursuant to the requirements set forth in RCW 90.58.140 and .180.

- B. Appeal of Shoreline Master Program amendments after the Department of Ecology's written notice of final action, shall be made to the Growth Management Hearings Board pursuant to the requirements set forth in RCW 90.58.190(2) and RCW 36.70A.290.

**19.70.070 Appeal of SEPA.**

Appeals of SEPA threshold determinations or adequacy of EIS, shall be consolidated. See Section 19.20.040, PMC 16.04.250 and 16.04.255, and RCW 36.70B and 43.21C.075.

**19.80 Time Frames for Review.**

**19.80.010 Purpose.**

This section establishes the time frame and procedures for a determination of completeness and final decision for Type II, III, and V. Time frame(s) for Type I are as set forth in Section 19.40.020.B. No time frames are established Type IV reviews, nor shall the following time frames apply for land use permits for which a development agreement is associated.

**19.80.020 Computing Time.**

All time frames are indicated as calendar days, not working days. For the purposes of computing time, the day the determination or decision is rendered shall not be included. The last day of the time period shall be included unless it is a Saturday, Sunday or a day designated by RCW 1.16.050 or by the City's ordinances as a legal holiday, in which case it also is excluded, and the time period concludes at the end of the next business day.

**19.80.030 Application Review and Decision Time Frame.**

- A. Decisions on Type II, III and V, shall not exceed 120 days. Permit decisions on short plat approval shall not exceed 30 days and permit decisions on preliminary plat approval shall not exceed 90 days, provided that:
  - 1. A longer review timeframe may occur if the City makes written findings that a specified amount of additional time is needed for processing of a specific complete land use application, or if the applicant and City agree, in writing, to an extension.
  - 2. For purposes of calculating timelines and counting days of permit processing, the applicable time period shall begin on the first working day following the date the application is determined to be technically complete pursuant to Section 19.30.030, and shall only include the time during which the City can proceed with review of the application, as set forth in Section 19.80.040.
- B. Appeals. The time period for consideration and decision on appeals shall not exceed:

1. Ninety (90) for an open record appeal hearing.
2. The parties may agree in writing to extend these time periods. Any extension of time must be mutually agreed upon by the applicant and the City in writing.

**19.80.040 Calculating Decision Time Frame.**

In determining the number of days that have elapsed after the City has notified the applicant that the application is technically complete, the following periods shall be excluded:

- A. Any period during which the applicant has been requested by the City to correct or revise drawings or designs, perform required studies, or provide additional required information. The period shall be calculated from the date the City notifies the applicant in writing for the need for corrections, revisions and/or additional information, until the date the City determines whether the corrections, revisions and/or additional information satisfies the request for information. The City shall notify the applicant within 14 calendar days after the date the information has been provided to the City, or it shall be presumed satisfactory.
- B. If the City determines that the information submitted by the applicant is insufficient, it shall notify the applicant of the deficiencies, and the procedures under subsection A of this section shall apply as if a new request for information had been made.
- C. Any period during which an Environmental Impact Statement is being prepared following a Determination of Significance pursuant to RCW Chapter 43.21C, or if the City and the applicant in writing agree to a time period for completion of an Environmental Impact Statement.
- D. Any period during which a permit, approval or other documentation from a state or federal agency has been applied for in support of the application, and which the receipt of the permit is necessary before the application can be further processed by the City.
- E. Any period during which an application has been remanded by the Poulsbo Hearing Examiner for additional information, analysis, revision or other material pursuant to Section 19.40.040.F.
- F. Any period for administrative appeals of project permits, if an open record appeal hearing are allowed.

**19.80.050 Time Frame to Provide Revisions, Corrections, Studies or Information.**

- A. A technically complete application shall be deemed null and void if the applicant fails to submit the City required revisions, corrections, studies or information as described in Section 19.80.040.A and B within 90 calendar days of the City's written request.

1. The 90 day time limit set forth by this Section does not apply for circumstances set forth in Section 19.80.040.C, D, E or F.
- B. An applicant may request one extension to the time limit set forth in Section 19.80.050.
- A. The Planning Director will review the request for extension and may grant it only if all of the following are met:
    1. The applicant requests such an extension in writing no less than 30 days prior to the permit becoming null and void. Verbal requests will not be accepted.
    2. The Planning Director finds that good cause has prevented them from providing the additional information within the 90 calendar day time period. Disagreement with required City codes and/or standards does not qualify as ‘good cause.’
    3. The applicant demonstrates the likelihood that the requested information will be provided to the City within the additional 90 calendar day time period.
    4. No more than one extension shall be granted.
    5. If at the end of the 90 day extension the requested revisions, corrections, studies or information has not been submitted and accepted by the City, the application will be formally closed and a new application and fees will be required to be submitted.

## **19.90 Post Decision Procedures.**

### **19.90.010 Purpose.**

The purpose of this section is to identify actions that a development applicant or the City may take after approval of the development application.

### **19.90.020 Commencement of Activity.**

Approval by the City of Type I, II, III, IV and V permit applications are assumed valid (unless overturned by an appeal decision). Project activity may commence before the end of any appeal period, or may continue if under appeal, at the sole risk of the applicant. For shoreline permits, commencement of activity shall not begin until 21 calendar days from the date of the Notice of Decision as required by RCW 173-27-190, or as otherwise set forth in PMC 16.09.

### **19.90.030 Extension of Approval.**

- A. After approval of a permit application, within 30 calendar days prior to the date of the permit expiration as set forth in the applicable permit section in the PMC, the property owner may request in writing an extension of time. The Planning Director, upon consultation with other development review departments, may grant an extension of time

for the permit approval, up to but not exceeding one year. Any extensions of time shall be based on the finding:

1. The approved permit is compliant with all applicable development codes at the time of the extension request, unless otherwise allowed by vesting laws.
  2. There has been no material change of circumstances applicable to the property since project permit approval.
  3. The property owner must provide good cause for the delay, and demonstrate likelihood that the permit will be commenced within the additional year.
  4. The Planning Director shall not grant more than one extension.
- B. Once the approval time period and any extension have expired, approval shall terminate, and the application is null and void.
- C. The permit approval will remain valid as long as action proposed in the application has been physically commenced and is in progress.
- D. See PMC 16.09.210 for shoreline permit approval and time extensions.

**19.90.040 Post Decision Modifications.**

- A. This section sets forth the procedures for reviewing and granting requests to modify any final approval on a permit approval granted by the City for Type I, II and III permits; provided that, for land division and shoreline permits, see the following provisions:
1. See applicable sections of PMC Title 17 for modifications to land division permits.
  2. See PMC 16.09.220 for procedures of revisions to shoreline permits.
- B. Modifications to Type I and Type II permit approvals.
1. Type I or II approved permits that seek modification and meet the criteria of subsection 3 and 4 below shall follow the procedures of a Type I permit process review, Section 19.40.020.
  2. A property owner or successor in interest to the approved application may submit a post decision modification application form and appropriate fee to the City for an approved permit that has not expired.
  3. The following are examples of modifications (but are not limited to), which may be considered and approved under this section:
    - a. Technical engineering items and details, unless the proposed detail modifies or eliminates features specifically required as an element of approval.

- b. Changes to street design that provide a plan superior to the approved street design in the determination of the City Engineer.
  - c. Reduction in the number of units, as long as the modification meets the residential minimum density requirement.
  - d. Reduction in square footage amount.
  - e. Increase of square footage of no more than 10% of gross square footage.
  - f. A change to a condition of approval that does not modify the intent of the original condition or original approval. Additional conditions of approval may be included as a result of the post decision modification.
  - g. Reconfiguration or addition of designated open space or recreation areas, provided that no reduction in the minimum required overall area occurs.
  - h. Reconfiguration of parking area, provided that no reduction in minimum amount of required parking space occurs.
4. The Planning Director, with consultation with other development review departments, may approve a proposed post decision modification if the following criteria is met:
- a. No increase in density or number of dwelling units.
  - b. No increase in square footage of more than 10% of gross square footage.
  - d. No reduction in the amount of required landscaping or open space is proposed.
  - e. No reduction in the required amount of parking is proposed.
  - f. All applicable development standards remain met.
  - g. A modification that does meet the above criteria but does not alter more than 10% of any approved dimensional requirement (excluding building height or density) may be approved.
5. The Planning Director, with consultation with other development review departments, may determine that the proposed post decision modification to an approved permit will require review as a new application rather than as a modification if it exceeds the provisions of this Section.

C. Modifications to Type III permit approval.

- 1. Type III approved permits that seek modification and meet the criteria of subsection 3 and 4 below shall follow the procedures of a Type II permit process review, Section 19.40.030, including issuance and distribution of a Notice of Application.
- 2. A property owner or successor in interest to the approved application may submit a post decision modification application form and appropriate fee to the City for an approved permit that has not expired.

3. The following are examples of modifications (but are not limited to), which may be considered and approved under this section:
  - a. Technical engineering items and details, unless the proposed detail modifies or eliminates features specifically required as an element of approval.
  - b. Changes to street design that provide a plan superior to the approved street design in the determination of the City Engineer.
  - c. Reduction in the number of units, as long as the modification meets the residential minimum density requirement.
  - d. Reduction in building square footage amount.
  - e. Increase of square footage of no more than 10% of gross square footage.
  - f. A change or revision to a condition of approval that does not modify the intent of the original condition or original approval. Additional conditions of approval may be included as a result of the post decision modification.
  - g. Reconfiguration or addition of designated open space or recreation areas, provided that no reduction in the minimum required overall area occurs.
  - h. Reconfiguration of parking area, provided that no reduction in minimum amount of required parking space occurs.
  
4. The Planning Director, with consultation with other development review departments, may approve a proposed post decision modification if the following criteria is met:
  - a. No increase in density or number of dwelling units.
  - b. No increase in square footage of more than 10% of gross square footage.
  - d. No reduction in the amount of required landscaping or open space is proposed.
  - e. No reduction in the required amount of parking is proposed.
  - f. All applicable development standards remain met.
  - g. A modification that does meet the above criteria but does not alter more than 10% of any approved dimensional requirement (excluding building height or density) may be approved.
  
5. The Planning Director, with consultation with other development review departments, may determine that the proposed post decision modification to an approved permit will require review as a new application rather than as a modification if it exceeds the provisions of this Section.
  
- D. An application for post decision modification does not extend the deadline for filing an appeal, does not stay any appeal proceedings, nor extend any deadline for permit expiration.

**19.90.050 Administrative Modifications.** The Planning Director may, without being subjected to the procedures set forth in Section 19.90.040, administratively modify or revise approved conditions of approval or other written decision statements, if it clarifies ambiguities or conflicts in a decision, corrects errors clearly identifiable from the record, or is warranted by

change of laws. Any administrative modification or revision shall be documented in writing and be made part of the approved permit file. This Section does not authorize the Planning Director to alter any vested rights of an approved permit.

**19.90.060 Revocation of Permits.**

- A. The Planning Director may determine that an approved permit should be suspended or revoked upon finding:
  - 1. Approval of the permit was obtained by misrepresentation of material fact.
  - 2. The permit is being exercised contrary to the terms of approval.
  - 3. The original conditions of approval cannot be satisfied.
- B. The Planning Director shall provide the property owner and permit applicant at least 30 calendar days written notice of the intent to suspend or revoke a permit. Unless otherwise set forth in the PMC, revocation will automatically occur upon the date specified by the notice unless the property owner or permit holder files an appeal of the Type I decision to suspend or revoke as provided in Section 19.70.010. If an appeal is filed, revocation shall not take place unless and until the appeal is concluded, and then only if the decision of the director is upheld.
- C. The Planning Director may revoke a permit on less than 30 days notice or upon no notice of all if, but only if, the property owner's or permit holder's continued activities will result in imminent danger to person or property or otherwise create irreparable harm. In the event of such an extraordinary situation, the property owner or permit holder may file an appeal of the revocation and seek an expedited appeal hearing. Such an expedited hearing shall take place at the earliest opportunity, and shall be given priority over any other matter on the Hearing Examiner's schedule that may be legally delayed.