

ORDINANCE NO. 2024-017

AN ORDINANCE OF THE CITY OF ARLINGTON, WASHINGTON AMENDING CHAPTER 20.16 OF THE ARLINGTON MUNICIPAL CODE REGARDING PERMITS AND LAND DIVISION APPROVAL UNDER CITY PLANNING NO. PLN 1185

WHEREAS, the city has proposed an update to the Permits and Land Division Approval regulations to the City zoning code; and

WHEREAS, the Arlington Planning Commission considered the revisions at docketing meetings on February 6, 2024 and February 22, 2024, and then on July 2, 2024 and at a public hearing conducted on July 16, 2024; and

WHEREAS, the Planning Commission made findings and provided its recommendations to the City Council concerning the proposed changes; and

WHEREAS, the City Council considered the revisions at docketing meetings on March 11, 2024 and March 18, 2024; and

WHEREAS, the City Council considered the same at a workshop held on July 22, 2024, a special meeting on July 29, 2024, and considered them along with the Planning Commission recommendations; and the City Council having determined approving said amendment was in the best interest of the City; and

WHEREAS, the amendments were presented to the Department of Commerce for comment and said Department had no comments on the ordinance; and

WHEREAS, the City Council has considered the proposed amendment to the municipal code and finds it to be consistent with city and state law and in the best interests of the citizens; and

NOW, THEREFORE, the City Council of the City of Arlington does hereby ordain as follows:

Section 1. Arlington Municipal Code section 20.16 shall be amended as shown in **Exhibit A** attached to this Ordinance:

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Effective Date. The title of this ordinance which summarizes the contents shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five (5) days after the date of publication as provided by law.

PASSED by the City Council of the City of Arlington and APPROVED by the Mayor this 29th day of July, 2024.

CITY OF ARLINGTON

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Don E. Vanney, Mayor

ATTEST:

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Wendy Van Der Meersche, City Clerk

APPROVED AS TO FORM:

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Steven J. Peiffle, City Attorney

Chapter 20.16  
PERMITS AND LAND DIVISION  
APPROVAL

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**Part I. Permit Application Procedures****20.16.100 Permits Required.**

- (a) Subject to this chapter, §20.68.010 (Permit Required for Signs), the use made of property may not be substantially changed (see §20.40.070, Change in Use), ~~and land clearing, grading, filling, or excavation may not be commenced,~~ and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one of the following permits:
  - (1) A zoning permit issued by the Community and Economic Development Director or his/her designee.
  - (2) A special use permit issued by the Community and Economic Development Director or his/her designee or Hearing Examiner (if a hearing is requested during the notice of application comment period).
  - (3) A conditional use permit issued by the Hearing Examiner.
  - (3)(4) An administrative conditional use permit issued by the Community and Economic Development Director or his/her designee.
- (b) Zoning permits, special use permits, conditional use permits, or administrative conditional use permits, and sign permits are issued under this title only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this title if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in §20.16.350 (Effect of Permit on Successors or Assigns), all development shall occur strictly in accordance with such approved plans and applications.
- (c) Physical improvements to land to be subdivided may not be commenced except in accordance with a conditional use permit issued by the Hearing Examiner for major subdivisions or in accordance with a zoning permit issued by the Community and Economic Development Director for minor subdivisions (see Part IV, Land Division Permits, of this chapter).
- (d) A zoning permit, special use permit, conditional use permit, administrative conditional use permit, or sign permit shall be issued in the name of the applicant (except those applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority. §20.16.350 (Effect of Permit on Successors or Assigns).

(e) If more than one permit type is required to be completed for a proposed project, then they shall be combined into a consolidated permit and be processed per the regulations of §20.16.160 (Consolidated Permit Review Process).

#### 20.16.105 Permits Exempt.

(a) The city is allowed to exempt certain permit types in accordance with RCW 36.70B.140. The following types of permits are exempt from the provisions of RCW 3.70B.060 through \*36.70B.090, 36.70B.110 through 36.70B.130, and the consolidated permit review procedures. However, other permitting processes are required and shall meet certain sections of Title 20 – Zoning and other Titles of the Arlington Municipal Code:

- (1) Comprehensive Plan Amendments and Rezones
- (2) Zoning Code Amendments
- (3) Annexations
- (4) Subarea Plans
- (5) Development Agreements
- (6) Design Review Board and Administrative Design Review (not concurrent with land use permit, but will still meet the minimum required permit processing time of 65 days)
- (7) Code Interpretation
- (8) Permit Extension Request
- (9) Landmark designations
- (10) Flood Hazard Permit
- (11) Tree Removal Permit
- (12) Right-of-Way Closure Request
- (13) Street Vacations or Street Dedications
- (14) Right-of-Way, Grading, Paving, Drainage and Civil Construction Permits
- (15) Water/Sewer Availability and Utility Service
- (16) Residential Building Permit, Commercial Building Permit, Zoning Verification, Fire Safety Permit, Operating Permit, or Miscellaneous Building Permits (Demolition, Manufactured Home, Master Sign Permit, Sign Permit, Moving a Building Permit, Re-Roof Permit, Solar Permit, Temporary Operating Permit, Temporary Right-of-Way Use Permit).
- (17) Existing Building Interior Alterations from exempt from site plan review, provide that the interior alterations do not result in the following:
  1. Additional sleeping quarters or bedrooms; or
  2. Nonconformity with federal emergency management agency substantial improvement thresholds; or
  3. Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.
  4. Nothing in this section exempts interior alterations from otherwise applicable building, plumbing, mechanical, or electrical codes.
  5. For purposes of this section, “interior alterations” include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.

#### 20.16.110 Who May Submit Permit Applications.

(a) Applications for zoning, special use, conditional use, or administrative conditional use ~~or sign~~ permits or subdivision plat approval will be accepted only from persons having the legal authority to take action in accordance with the permit or the subdivision plat approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their

agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this title, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).

- (b) The Community and Economic Development Director shall require an applicant to submit evidence of his authority to submit the application in accordance with Subsection (a) whenever there appears to be a reasonable basis for questioning this authority.

#### 20.16.120 Official Representative of the Applicant.

The applicant for each land use permit shall designate an official representative, which may be himself, to receive all correspondence, determinations, and notices regarding the application. The City is not obligated to provide said correspondence, determinations, or notices to any other representative of the applicant, or even the applicant him/herself if the official representative is anyone other than him/herself, unless otherwise specified by this Title.

#### 20.16.130 Staff Consultation Before Formal Application.

- (a) Except as provided in Subsection (c), to minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this title, a general information meeting and pre-application consultation between the developer and the planning staff is encouraged as provided in this section.
- (b) Before applying for a permit, the city encourages all developers or applicants ~~shall to~~ participate in a general information meeting and/or pre-application meeting and present to the Community and Economic Development Director a sketch plan of such subdivision, drawn approximately to scale (1 inch = 100 feet). The sketch plan shall contain:
- (1) The name and address of the developer,
  - (2) The proposed name and location of the subdivision,
  - (3) The approximate total acreage of the proposed subdivision,
  - (4) The tentative street and lot arrangement,
  - (5) Topographic lines, and
  - (6) Any other information the developer believes necessary to obtain the informal opinion of the planning staff as to the proposed subdivision's compliance with the requirements of this title.
- The Community and Economic Development Director shall meet with the developer as soon as conveniently possible to review the sketch plan.
- (c) The Community and Economic Development Director may waive the requirement for a pre-application meeting for minor projects that, in his/her opinion, do not warrant such a meeting.

#### 20.16.140 Submittal of Application.

- (a) Except as provided in subsection (d), to minimize development planning costs, avoid misunderstanding or misinterpretations, and ensure compliance with the requirements of this title, a submittal intake appointment is ~~required~~ recommended between the developer and the Community and Economic Development staff as provided in this section.
- (b) Before submitting an application for a permit, the developer ~~shall~~ should participate in a submittal intake appointment and present to the Community Development staff all the elements necessary for such application.
- ~~(c) Submittal appointments shall be scheduled at least one week prior to the submittal intake appointment.~~
- ~~(d)~~(c) The Community and Economic Development Director may waive the requirement for a submittal intake appointment for minor projects that, in his/her opinion, do not warrant such an appointment.

### 20.16.150 Vesting of Permits.

- (a) Land use permit applications shall be considered vested on the date that an application is deemed complete pursuant to [§20.16.205 \(Complete Application\)](#) and applications shall be processed under the land use regulations in effect on that date. However, subsequent permits on the same property are not vested on this date.
- (b) Filing of a permit application does not vest the payment of fees. Fees due, including impact mitigation fees, application fees, or other charges, shall be those fees in effect on the date the fee is paid in accordance with the most current city council fee resolution.

### 20.16.160 ~~Processing Multiple Permits~~ Consolidated Permit Review Procedures.

- (a) Whenever a proposed project requires more than one permit, or multiple permits, by this Title, the entire application will be linked and processed simultaneously using the consolidated permit review process, as described in Subsection (c) below, specified for the permit requiring the highest degree of review and decision-making.
- (b) Where another agency with jurisdiction requires a public meeting or open record hearing as a part of their permitting process, any public meetings or open record hearings required by this Title ~~may~~ shall be combined with those of the other agency with jurisdiction provided that the requirements of [§20.24.014 \(Combining Hearings With Those of Other Agencies\)](#) are met.
- (c) The consolidated permit review process includes the following:
  - (1) A consolidated permit project will be processed by a designated permit technician.
  - (2) One consolidated determination of completeness shall be issued according to §20.16.205 of this chapter.
  - (3) One consolidated notice of application shall be issued, when applicable for the permit type, according to §20.16.230 of this chapter.
  - (4) One consolidated public hearing shall be set, when required for the permit type, according to §20.24 (Hearing and Pre-Hearing Procedures for Appeals and Applications).
  - (5) One consolidated notice of final decision that includes all aspects of the project permit being reviewed through the consolidated permit review process, according to §20.16.215 of this chapter.
- (d) The following are the consolidated permit review categories and requirements for each type:
  - (1) Permits that do not require public notice:
    - (A) In order to receive a complete application, the developer shall submit all required submittal checklist items that are included in the application packet for the specific permit type.
    - (B) This permit type does not require a notice of application.
    - (C) The Community and Economic Development Director or his/her designee shall issue the final administrative decision.
    - (D) The consolidated permit shall be processed in accordance with §20.16.270(a)(1) of this chapter.
    - (E) The fees shall be those adopted by the city's current fee schedule resolution adopted by city council for the permit types being processed.
    - (F) An appeal of the administrative decision issued by the Community and Economic Development Department shall be processed in accordance with §20.20 (Appeals, Variances, Interpretations).
    - (G) The city encourages all developers and/or applicants to schedule a general information meeting or preapplication conference in accordance with §20.16.130 of this chapter.
    - (H) The determination of consistency of the development project shall be made through one written permit decision that includes all regulations of the specific permit types.

- (1) One notice of decision shall be made meeting the requirements of §20.16.275 of this chapter.
- (2) Permits that require public notice but not a public hearing:
  - (A) In order to receive a complete application, the developer shall submit all required submittal checklist items that are included in the application packet for the specific permit type.
  - (B) The city shall issue a notice of application in accordance with §20.16.230 of this chapter.
  - (C) The Community and Economic Development Director or his/her designee shall issue the final administrative decision.
  - (D) The consolidated permit shall be processed in accordance with §20.16.270(a)(2).
  - (E) The fees shall be those adopted by the city's current fee schedule resolution adopted by city council for the permit types being processed.
  - (F) An appeal of the administrative decision issued by the Community and Economic Development Department shall be processed in accordance with §20.20 (Appeals, Variances, Interpretations).
  - (G) The city encourages all developers and/or applicants to schedule a general information meeting or preapplication conference in accordance with §20.16.130 of this chapter.
  - (H) The determination of consistency of the development project shall be made through one written permit decision that includes all regulations of the specific permit types.
  - (I) One notice of decision shall be made meeting the requirements of §20.16.275 of this chapter.
- (3) Permits that require public notice and a public hearing:
  - (A) In order to receive a complete application, the developer shall submit all required submittal checklist items that are included in the application packet for the specific permit type.
  - (B) The city shall issue a notice of application in accordance with §20.16.230 of this chapter.
  - (C) The Hearing Examiner shall issue the final decision after a public hearing is held.
  - (D) The consolidated permit shall be processed in accordance with §20.16.270(a)(3).
  - (E) The fees shall be those adopted by the city's current fee schedule resolution adopted by city council for the permit types being processed.
  - (F) An appeal of the decision issued by the Hearing Examiner shall be processed in accordance with §20.20 (Appeals, Variances, Interpretations).
  - (G) The city encourages all developers and/or applicants to schedule a general information meeting or preapplication conference in accordance with §20.16.130 of this chapter.
  - (H) The determination of consistency of the development project shall be made through one written staff report and recommendation that includes all regulations of the specific permit types.
  - (I) One notice of decision shall be made meeting the requirements of §20.16.275 of this chapter.

#### 20.16.170 Completing Developments in Phases.

- (a) If a development is constructed in phases or stages in accordance with this section, then, subject to Subsection (c), the provisions of [§20.16.320 \(No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled\)](#) and [§20.16.340 \(Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special Use or Conditional Use Permits\)](#) shall apply to each phase as if it were the entire development.
- (b) As a prerequisite to taking advantage of the provisions of Subsection (a), the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this title that will be satisfied with respect to each phase or stage.

- (c) If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that:
- (1) If the improvement is one required by this Title then the developer may utilize the provisions of [§20.16.340\(a\)](#) or [§20.16.340\(c\)](#),
  - (2) If the improvement is an amenity not required by this title or is provided in response to a condition imposed by the board, then the developer may use the provisions of [§20.16.340\(b\)](#).

#### 20.16.180 Applications to be Processed Expeditiously.

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the city shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this article.

## **Part II. Permit Review Procedures**

#### 20.16.200 Applications to Be Complete.

- (a) All applications for zoning, special use, conditional use, or administrative conditional use, or sign permits must be complete before the permit-issuing authority is required to consider the application.
- (b) Subject to Subsection (c), an application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this title, including a Master Permit-Land Use Application Form signed by both the applicant and the property owner. Generally, an application will be considered complete if it contains all the elements of the list of submission requirements (prepared by the Community and Economic Development Director, as authorized in Subsection (e) and they substantially meet the City's standards for such documents (i.e., they contain all the relevant sections, information, and analyses typically required in such documents). This is not to say that errors in the documents or differences of opinion shall constitute incompleteness; such issues may be worked out through the review process or may constitute reasons for denial.
- (c) In this title, detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.) are set forth in one or more of the administratively adopted policies authorized by this title. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information to allow the permit-issuing authority to evaluate the application in the light of the substantive requirements set forth in the text of this Title.

However, whenever this Title or a condition of a permit requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in one or more of these administratively adopted policies or other specified standards, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the Public Works Director. Failure to observe this requirement may result in permit

revocation, denial of final subdivision plat approval, or other penalty as provided in [§20.28](#) (Enforcement and Review).

- (d) The presumption established by this title is that all the information set forth in the ~~administrative guideline~~ application submittal requirements specifying the information required with applications is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the permit-issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. Generally, the applicant may rely on the recommendations of the Community and Economic Development Director as to whether more or less information than that set forth in the ~~administrative guideline entitled “Information Required with Applications”~~ application submittal requirements should be submitted; however, the permit-issuing authority reserves the right to require more information if needed to make a decision.
- (e) The Community and Economic Development Director shall develop application forms, a list of submission requirements, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In ~~classes of cases~~ where a minimal amount of information is necessary to enable the Community and Economic Development Director to determine compliance with this title, ~~such as applications for zoning permits to construct single-family or two-family houses, or applications for sign permits,~~ the Community and Economic Development Director shall develop standard forms that will expedite the submission of the necessary plans and other required information.

#### 20.16.205 Complete Application.

- (a) Upon receipt of a formal application for a zoning, special use, ~~or conditional use permit,~~ administrative conditional use permit, or plat approval, the Community and Economic Development Director shall review the application and, at his/her discretion, confer with the applicant to ensure that the planning staff’s interpretation of the applicable requirements of this title is understood, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.
- (b) The Community and Economic Development Director will process the permit application concurrently with the SEPA process.
- (c) Within twenty-eight (28) calendar days after receiving a permit application, the Community and Economic Development Director shall email, mail or provide in person a written determination to the applicant, stating either:
- (1) That the application is complete; or,
  - (2) That the application is incomplete and ~~what is necessary to make the application complete~~ that the procedural submission requirements of the city have not been met. The determination shall outline what is necessary to make the application procedurally complete. To the extent known, the Community and Economic Development Director shall identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.
- (d) A project permit application is complete for purposes of this section when it meets the procedural submission requirements of the city, as outlined on the project permit application. Additional information may be undertaken subsequent to the procedural review of the application by the city. The determination of completeness shall not preclude the city from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur. However, if the procedural submission requirements, as outlined on the project permit application have been provided, the need for additional information or studies may not preclude a completeness determination.
- (e) The determination of completeness may include or be combined with the following:

- (1) A preliminary determination of those development regulations that will be used for project mitigation;
- (2) A preliminary determination of consistency, as provided under RCW 36.70B.040;
- (3) Other information the city chooses to include; or
- (4) The notice of application pursuant to the requirements in RCW 36.70B.110.
- ~~(d)~~(f) The application is shall be deemed procedurally complete on the twenty-ninth (29<sup>th</sup>) calendar day after receiving a project permit application under this section if the City does not provide a written determination to the applicant that the application is procedurally incomplete as provided in Subsection (c) of this section. When the city does not provide a written determination, they may still seek additional information, or studies as provided for in Subsection (d) of this section.
- (g) Within fourteen (14) days after an applicant has submitted to the Community and Economic Development Director the additional information identified as being necessary for a complete application, the Community and Economic Development Director shall notify the applicant whether the application is complete or what additional information is necessary.
- ~~(e)~~(h) The notice of application shall be provided within 14 days after the determination of completeness pursuant to RCW 36.70B.110.

#### 20.16.210 Burden of Presenting Evidence; Burden of Persuasion.

- (a) The burden of presenting a complete application (as described in [§20.16.200, Applications To Be Complete](#)) to the permit-issuing authority shall be upon the applicant. However, unless prior to the time that a decision is made the permit-issuing authority informs the applicant in what way the application is incomplete and offers the applicant an opportunity to complete the application, the application shall be presumed to be complete.
- (b) Once a completed application has been submitted, the burden of presenting evidence to the permit-issuing authority sufficient to lead it to conclude that the application should be denied for any reasons stated in [§20.16.225 \(Special Use Permits and Conditional Use Permits\)](#) shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application.
- (c) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this title remains at all times on the applicant.

#### 20.16.215 Distribution of Application.

Upon receipt of a zoning, special use, or conditional use, or administrative conditional use permit application, the Planning Official shall, in addition to all interested City Departments, send a copy of the application to the authorities and agencies reviewing or furnishing water, fire, school, and sanitary sewer service to the proposed project.

#### 20.16.220 Zoning Permits and Administrative Conditional Use Permits.

- (a) A completed application form for a zoning or administrative conditional use permit shall be submitted to the Community and Economic Development Director by filing a copy of the application with the planning department.
- (b) The Community and Economic Development Director shall issue the zoning or administrative conditional use permit unless he or she finds, after reviewing the application and consulting with the applicant as provided in [§20.16.130 \(Staff Consultation Before Formal Application\)](#), that:
  - (1) The requested permit is not within his jurisdiction according to the Table of Permissible Uses, or
  - (2) The application is incomplete, or
  - (3) If completed as proposed in the application, the development will not comply with one or more requirements of this title (not including those requirements concerning which a variance has

- been granted or those the applicant is not required to comply with under the circumstances specified in §20.32, Nonconforming Situations), or
- (4) The proposed project has not complied with SEPA, or
  - (5) The proposed project is not in conformance with the Comprehensive Plan or other adopted plans, regulations, or policies.
- (c) In considering the permit application, the Community and Economic Development Director shall not consider the following issues, which have already been decided by the City Council through their previous actions of adopting the Comprehensive Plan and Land Use Code:
- (1) Whether the proposed use, if identified by §20.40 Permissible Uses as a permissible use in the zoning district, should be a permissible use;
  - (2) Whether the proposed residential densities, if identified by §20.48 Density and Dimensional Regulations) as a permissible density in the zoning district, should be allowed;
  - (3) Whether public facilities identified in the Comprehensive Plan are available and adequate, if the plan or development regulations provide for funding of these facilities as required by 36.70A RCW.
- (d) Except as specified in Subsection (b), if the Community and Economic Development Director decides that if it would be in the best interest of the project and/or community to provide notice of the project, he or she shall, at least ten days before taking final action on the permit request, send a written notice to those persons who have listed for taxation real property any portion of which is within 500 feet of the lot that is the subject of the application, informing them that:
- (1) An application has been filed for a permit authorizing identified property to be used in a specified way,
  - (2) All persons wishing to comment on the application should contact the Community and Economic Development Director by a certain date, and
  - (3) Persons wishing to be informed of the outcome of the application should send a written request for such notification to the Community and Economic Development Director.
- (e) In the case of zoning permits for minor subdivisions, binding site plans, and unit lot subdivisions, the Community and Economic Development Director shall always issue public notice as described in Subsection (d).

#### 20.16.225 Special Use Permits and Conditional Use Permits.

- (a) An application for a special use permit shall be submitted to the Community and Economic Development Director or Hearing Examiner, whomever shall be the decision-maker as per subsection (b), by filing a copy of the application with the Community and Economic Development Director in the planning department. An application for a conditional use permit shall be submitted to the Hearing Examiner by filing a copy of the application with the Community and Economic Development Director in the planning department.
- (b) Decisions on special use permits are:
- (1) Made by the Community and Economic Development Director unless any interested party requests a hearing before the Hearing Examiner by the close of the review period of the Notice of Application Filed, required per §20.16.230 ([Notice of Application Filed](#)).
  - (2) Made by the Hearing Examiner if a hearing is requested, in which case the Community and Economic Development Director shall forward the Special Use Permit application, along with a staff report and recommendation ~~to said board~~ for their consideration.
- (c) Subject to Subsection (d), the designated decision-maker shall issue the requested permit unless it concludes, based upon the information submitted at a hearing if there is a hearing or by signed letter if there is not, that:
- (1) The requested permit is not within its jurisdiction according to the Table of Permissible Uses, or
  - (2) The application is incomplete, or

- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this Title (not including those the applicant is not required to comply with under the circumstances specified in [§20.32](#), (Nonconforming Situations), or
  - (4) The proposed project has not complied with SEPA, or
  - (5) The proposed project is not in conformance with the Comprehensive Plan, Transportation Plan, or other adopted plans, regulations, or policies.
- (d) Even if the permit-issuing authority finds that the application complies with all other provisions of this title, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:
- (1) Will materially endanger the public health or safety, or
  - (2) Will materially harm adjoining or abutting property,
  - (3) In terms of design and use will not be compatible with the area in which it is located.
- (e) In considering the permit application, the Community and Economic Development Director or Hearing Examiner shall not consider the following issues, which have already been decided by the City Council through their previous actions of adopting the Comprehensive Plan and Land Use Code:
- (1) Whether the proposed use, if identified by §20.40. (Permissible Uses) as a permissible use in the zoning district, should be a permissible use;
  - (2) Whether the proposed residential densities, if identified by §20.48. (Density and Dimensional Regulations) as a permissible density in the zoning district, should be allowed;
  - (3) Whether public facilities identified in the Comprehensive Plan are available and adequate, if the plan or development regulations provide for funding of these facilities as required by 36.70A RCW.

#### 20.16.230 Notice of Application Filed.

- (a) The Community and Economic Development Director shall give public notice of any application filed for a special or conditional use permit or a variance by issuing, distributing, and advertising a “Notice of Application Filed” as follows:
- (1) Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing and/or emailing to such persons a written notice not later than fourteen days after the determination of complete application has been made per [§20.16.205 \(Complete Application\)](#).
  - (2) Notice shall be given to neighboring property owners by mailing a written “Notice of Application Filed” within fourteen days after the determination of complete application has been made per [§20.16.205 \(Complete Application\)](#) to those persons who have listed for taxation real property any portion of which is located within five hundred feet of the lot that is the subject of the application or appeal or, where the owner of the subject parcel owns other contiguous lots not under application, within five hundred feet of all contiguously owned lots.
  - (3) A copy will be posted on the official notification boards of the City.
  - (4) A copy will be posted on the City’s website on the public notice page.
  - (5) A copy will be sent to appropriate city or county officials if the proposed project adjoins their jurisdiction or has potential impacts on their capital improvements or services.
  - (6) A copy will be sent to the State Department of Transportation if the proposed project is adjacent to the right-of-way of a state highway or has potential impacts on their facilities or Level of Service.
  - (7) A copy will be sent to all other agencies with jurisdiction.
  - (8) Notice shall be given to other potentially interested persons by publishing a notice one time in a newspaper having general circulation in the area.

- (9) The ~~applicant city shall erect post~~ public notice signs, ~~of a format approved by the Community and Economic Development Director,~~ as soon as possible after the determination of complete application has been made per [§20.16.205 \(Complete Application\)](#) as follows:
- (A) A copy of the notice described in Subsection (10) shall be attached to each sign.
  - (B) One sign shall be erected on the subject property facing and readable from each accessible public right-of-way adjacent to the subject property.
- (10) The notice required by this section shall provide the following information:
- (A) The date of application, the date of issuance of the “Notice of Complete Application,” and the date of issuance of the “Notice of Application Filed.”
  - (B) The date, time, and place of any neighborhood meeting held pursuant to [§20.16.235 \(Neighborhood Meetings for Conditional Use Permits Required\)](#);
  - (C) Any person’s right to request a hearing on the matter, with an explanation that the decision is administrative (made by the Community and Economic Development Director) unless a hearing is requested as per [§20.16.225 \(Special Use Permits and Conditional Use Permits\)](#);
  - (D) Reasonable identification of the lot that is the subject of the application or appeal (give the street address of the property, or if this is not available, a locational description in non-legal language);
  - (E) A brief description of the action requested or proposed, including the number of lots proposed for a subdivision, and any proposed modifications or variances;
  - (F) A list of all permits required in the application;
  - (G) The name of the applicant and the proposed project;
  - (H) The official file number and a statement of its availability for review, including any existing studies, environmental documents, or other material related to the project;
  - (I) If applicable, a list of any studies requested;
  - (J) A list of other permits required by other agencies with jurisdiction, to the extent known by the City;
  - (K) A statement of the right of any person to submit written testimony to the appropriate permit-issuing authority and to appear at any public meeting or hearing on the project to give testimony orally;
  - (L) The dates of the public comment period that include the first and last date and time by which public comment may be submitted;
  - (M) A statement of the right of any person to receive notice of and participate in any hearings and request a copy of the decision once made;
  - (N) An explanation of appeal rights and procedure;
  - (O) The date, time, place and type of hearing if any hearing has been scheduled at the time;
  - (P) A statement of any preliminary determination, if one has been made, of those development regulations that will be used for project mitigation and of consistency; and,
  - (Q) A statement announcing the City's goal of complying with the intent of the American Disabilities Act, announcing accessibility, offer of assistance to persons with special needs, and availability of TDD services.
- (b) If the Responsible Official issues a Determination of Significance on the project concurrently with the notice of application, then the notice of application shall be combined with the Notice of Determination of Significance and EIS Scoping Notice.
- (c) The public shall have fourteen days in which to make comments on the application regarding the completeness of the application, the quality or quantity of the information presented, the project’s conformance to applicable plans or code, and, in the case of a variance or Special Use Permit, the request for a public hearing. Where a public hearing is required or requested, comments addressing the project’s conformance to applicable plans or code will continue to be accepted until the close of the public hearing.

### 20.16.235 Neighborhood Meetings for Conditional Use Permits Required.

- (a) All applications for conditional use permits shall be publicly scoped through a public neighborhood meeting. Upon receiving an application for a conditional use permit the Community and Economic Development Director shall schedule a scoping meeting to occur within one month of receipt but should be held at the earliest time possible while allowing for adequate noticing as per Subsection (c).
- (b) Neighborhood meetings shall generally be held between five and six ~~thirty~~ PM ~~just prior to a scheduled Planning Commission meeting~~ on a Tuesday, Wednesday, or Thursday, to ensure the availability of the most participants, unless circumstances require otherwise.
- (c) A “Notice of Application Filed” shall be distributed and advertised per [§20.16.230 \(Notice of Application Filed\)](#).
- (d) The intent of neighborhood meetings shall be to involve the public as early as possible in the permit process, so that potential issues are raised at the beginning, rather than the end, of the permit process and that solutions may be found during the process. To this end, the meeting shall be an informal gathering of interested parties, at which (i) a brief presentation of the project shall be made by the applicant (or the Community and Economic Development Director if the applicant is not present); (ii) the Community and Economic Development Director will raise any potential issues; and (iii) any participant may raise any potential issues relevant to the project. Solutions to any potential problems need not be found at this point but may be discussed. The Community and Economic Development Director shall take notes of the issues raised in the neighborhood meeting and place a record of them in the official file of the project.
- (e) Participation or lack of participation in a neighborhood meeting in no way limits an applicant's, the City's, or any other person's standing to participate in later processes or required hearings on the permit application.

### 20.16.240 Time Limit for Resubmitting Additional Information.

If while processing a permit the Community and Economic Development Director or hearing body requests additional information or revised plans necessary to continue processing the permit or for determining consistency with this Title, the applicant shall submit such information or revised plans within sixty (60) days of the request. An extension of this deadline may be granted by the requesting authority if it is determined that the time is not adequate given the information requested, however this may result in an extension to the established time limits for permit processing per 20.16.270(d). If an extension is requested the applicant shall provide to the city in writing the reasons for the extension of the deadline. The extension request must be received a minimum of five (5) working days prior to the deadline.

### 20.16.245 Recommendations on Special Use or Conditional Use Permit Applications.

- (a) When presented to the Community and Economic Development Director for an administrative decision or to the Hearing Examiner at a hearing, the application for a special use or conditional use permit shall be accompanied by a report setting forth:
  - (1) The planning staff's proposed findings concerning the application's compliance with [§20.16.200 \(Applications To Be Complete\)](#) and the other requirements of this title,
  - (2) All decisions and recommendations made as of the date of the report on all project permits included in the consolidated permit process that do not require an open record pre-decision hearing,
  - (3) A statement referencing the Responsible Official's Threshold Determination,
  - (4) Any mitigation required or proposed under the City's SEPA authority,
  - (5) As well as any staff recommendations for additional requirements to be imposed by the permit-issuing authority.

- (b) The report may be the land use permit.
- (c) If the staff proposes a finding or conclusion that the application fails to comply with [§20.16.200 \(Applications To Be Complete\)](#) or any other requirement of this title, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.
- (d) The permit-issuing authority may, by general rule applicable to all cases or any class of cases, or on a case-by-case basis, refer applications to the next higher decision-making level to obtain its recommendations.

#### 20.16.250 Community and Economic Development Director or Hearing Examiner Action on Special Use Permits.

In considering whether to approve an application for a special use permit, the Community and Economic Development Director or Hearing Examiner, whichever is the appropriate permit-issuing authority per [§20.16.225 \(Special Use Permits and Conditional Use Permits\)](#), shall proceed in the same manner as the Hearing Examiner when considering conditional use permit applications [§20.16.255 \(Hearing Examiner Action on Conditional Use Permits\)](#).

- (a) The permit-issuing authority shall consider whether the application is complete. If the permit-issuing authority concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. A finding to this effect shall specify either the particular type of information lacking or the particular requirement with respect to which the application is incomplete. If a finding to this effect is not made this shall be taken as an affirmative finding by the permit-issuing authority that the application is complete.
- (b) The permit-issuing authority shall consider whether the application complies with all of the applicable requirements of this title. If a finding to this effect is made, the permit-issuing authority need not make further findings concerning such requirements. If such a finding is not made, then a finding shall be made that the application is not in compliance with one or more requirements of this title. Such a finding shall specify the particular requirements the application fails to meet. A separate finding may be made with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the permit-issuing authority to be unsatisfied through this process. As provided in [§20.16.225 \(Special Use Permits and Conditional Use Permits\)](#), if the permit-issuing authority concludes that the application fails to meet one or more of the requirements of this title, the application shall be denied.
- (c) In response to concerns expressed by the permit-issuing authority, planning staff, or public testimony, the applicant may modify his application during the hearing, and the planning staff may likewise revise its recommendations. If a project is modified in such a manner as to make the proposed use more intense, then the project shall be denied without prejudice and a new application shall be filed. The new application shall conform to the standards and procedures of this Title.
- (d) If the permit-issuing authority concludes that all such requirements are met, it shall issue the permit unless it makes a finding to deny the application for one or more of the reasons set forth in Subsection [20.16.225 \(d\) \(Special Use Permits and Conditional Use Permits\)](#). If the application is denied for such reasons, the permit-issuing authority shall make specific findings, based upon the evidence submitted, justifying such a conclusion.

#### 20.16.255 Hearing Examiner Action on Conditional Use Permits.

- (a) When presented to the Hearing Examiner, the application for a conditional use permit shall be accompanied by a report setting forth the planning staff's proposed findings concerning the application's compliance with [§20.16.200 \(Applications To Be Complete\)](#) and other requirements of this title, as well as any staff recommendations for additional requirements to be imposed by the Hearing Examiner.

- (b) If the staff proposes a finding or conclusion that the application fails to comply with §[20.16.200 \(Applications To Be Complete\)](#) or any other requirement of this title, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.
- (c) The Hearing Examiner shall consider the application and the attached staff report in a timely fashion and hear from the applicant or interested members of the public. (Notice to the adjoining property owners is provided for in §[20.24.020 Public Notice](#).) The Hearing Examiner, at his discretion, may limit testimony in duration and/or number of times.
- (d) In response to concerns expressed by the Hearing Examiner, planning staff, or public testimony, the applicant may modify his application during the hearing, and the planning staff may likewise revise its recommendations. If a project is modified in such a manner as to make the proposed use more intense, then the project shall be denied without prejudice and a new application shall be filed. The new application shall conform to the standards and procedures of this Title.
- (e) In considering whether to approve an application for a conditional use permit, the Hearing Examiner shall proceed according to the following format:
- (1) The Hearing Examiner shall consider whether the application is complete. If no evidence is presented that the application is incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the Hearing Examiner that the application is complete.
  - (2) The Hearing Examiner shall consider whether the application complies with all of the applicable requirements of this title. If a finding to this effect can be made, the Hearing Examiner need not make further findings concerning such requirements. If such a finding cannot be made, then a finding shall be made that the application be found not in compliance with one or more of the requirements of this title. Such a finding shall specify the particular requirements the application fails to meet. Separate findings may be made with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the Hearing Examiner to be unsatisfied through this process.
  - (3) If the Hearing Examiner concludes that the application fails to comply with one or more requirements of this title, the application shall be denied. If the Hearing Examiner concludes that all such requirements are met, he shall issue the permit unless he denies the application for one or more of the reasons set forth in §[20.16.225 \(Special Use Permits and Conditional Use Permits\)](#). Specific findings for such a denial must be made, based upon the evidence submitted, justifying such a conclusion.

20.16.260 Additional Requirements on Zoning, Special Use, ~~and~~ Conditional Use Permits, and Administrative Conditional Use Permits.

- (a) Subject to Subsection (b), in granting a zoning, special, ~~or~~ conditional use, or administrative conditional use permit, the Community and Economic Development Director or Hearing Examiner, respectively, may attach to the permit such reasonable requirements in addition to those specified in this title as will ensure that the development in its proposed location:
- (1) Will not endanger the public health or safety,
  - (2) Will not materially harm adjoining or abutting property,
  - (3) In terms of design and use will be compatible with the area in which it is located, and
  - (4) Will be in conformity with the land-use plan, transportation plan, or other plan officially adopted by the council.

Such reasonable requirements need not be specifically authorized by other Chapters of the AMC but do need to address specifically identified, project-related impacts.

- (b) The permit-issuing authority may not attach additional conditions that modify or alter the specific requirements set forth in this code unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.
- (c) Without limiting the foregoing, the permit-issuing authority may attach to a permit a condition limiting the permit to a specified duration.
- (d) All additional conditions or requirements shall be entered on the permit.
- (e) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this title.

#### 20.16.265 Fire Marshal Approval Prior to Issuance of Permits.

No zoning, special use, or conditional use permit shall receive final approval until the Fire Marshal has verified that the provisions of AMC Title 15 are satisfied.

#### 20.16.270 Time Limits for Permit Processing.

- ~~(a) Except as otherwise provided in Subsection (b) of this section, the City shall issue its notice of final decision on a permit application within one hundred twenty (120) days after the Community and Economic Development Director notifies the applicant that the application is complete, as provided in §20.16.205 (Complete Application). In determining the number of days that have elapsed, the following periods shall be excluded:~~
  - ~~(1) Any period during which the applicant has been requested to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the Community and Economic Development Director notifies the applicant of the need for additional information until the earlier of the date the Community and Economic Development Director determines whether the additional information satisfies the request for information or fourteen (14) days after the date the information has been provided. If the Community and Economic Development Director determines that the information submitted by the applicant is insufficient, he shall notify the applicant of the deficiencies and these procedures shall apply as if a new request for studies had been made;~~
  - ~~(2) Any period during which an environmental impact statement (EIS) is being prepared following a determination of significance (DS) pursuant to the State Environmental Protection Act (SEPA);~~
  - ~~(3) Any period for administrative appeals of project permits;~~
  - ~~(4) Any extension of time mutually agreed upon by the applicant and the local government.~~
- ~~(b) The time limits established by Subsection (a) do not apply if a permit application:~~
  - ~~(1) Requires an amendment to the Comprehensive Plan or a development regulation;~~
  - ~~(2) Requires approval of a new fully contained community as provided in RCW 36.70A.350, a master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.70A.200; or,~~
  - ~~(3) Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete.~~
- ~~(c) If the City is unable to issue its final decision within the time limits provided herein, the Community and Economic Development Director shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of final decision.~~

~~The City is not liable for damages under this chapter due to the City's failure to make a final decision within the above time limits.~~

- (a) The city shall issue the notice of final decision on a permit application or permit type subject to this chapter within the following time periods:

- (1) A notice of final decision for zoning permits, administrative conditional use permits, and boundary line adjustments (permits that do not require public notice) shall be issued within 65 days of the determination of complete application. If a variance (requiring a public hearing) is required with these permit types, that requires public notice, then the final decision shall be issued within 100 days of the determination of complete application.
- (2) A notice of final decision for special use permits, SEPA only permits, variance, minor (nine lots or less) short plats/subdivisions, binding site plans, and unit lot subdivisions (permits that require public notice) shall be issued within 100 days of the determination of complete application. If a variance (requiring a public hearing) is required or if a hearing is requested as part of the special use permit process, then the special use permit final decision shall be issued within 170 days of the determination of complete application.
- (3) A notice of final decision for conditional use permits, major (ten lots or more) plats/subdivisions, binding site plans, and unit lot subdivisions (permits that require public notice and public hearings) shall be issued within 170 days of the determination of complete application.
- (b) The number of days an application is in review with the city shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the project permit application. The number of days shall be calculated by counting every calendar day and excluding the following time periods:

  - (1) Any period between the day that the city has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant.
  - (2) Any period after an applicant informs the local government, in writing, that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the local government, in writing, that they would like to resume the application, subject to 20.16.270(d).
  - (3) Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.
  - (4) Any period during which an environmental impact statement (EIS) is being prepared following a determination of significance (DS) pursuant to the State Environmental Protection Act (SEPA).
  - (5) Any extension of time mutually agreed upon by the applicant and the city.
- (c) The time periods for the city to process a permit shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use.
- (d) If, at any time, an applicant informs the city, in writing, that the applicant would like to temporarily suspend the review of the project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the city has notified the applicant, in writing, that additional information is required to further process the application, an additional 30 days may be added to the time periods for the city to issue a final decision for each type of project permit that is subject to this chapter. Any written notice from the city to the applicant that additional information is required to further process the application must include a notice that nonresponsiveness for 60 consecutive days may result in 30 days being added to the time for review. For the purposes of this subsection, “nonresponsiveness” means that the applicant is not making demonstrable progress on providing additional requested information to the city, or that there is no ongoing communication from the applicant to the city on the applicant’s ability or willingness to provide the additional information.

- (e) The city has included the following project review and code provisions in accordance with RCW 36.70B.160 to provide prompt, coordinated review to ensure accountability to applicants and the public:
- (1) Expedited review for project permit applications for projects that are consistent with adopted development regulations.
    - (A) Projects that do not have public notice and are submitted as complete applications shall take priority over other projects.
  - (2) The city is maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly.
  - (3) The city has new positions budgeted that are contingent on increased permit revenue.
  - (4) The city has regulations which only require public hearings for permit applications that are required to have a public hearing.
  - (5) The city has development regulations which encourage preapplication meetings but does not require the meeting prior to permit application submittal.
  - (6) The city shall meet with the applicant to attempt to resolve outstanding issues during the review process. The meeting shall be scheduled within fourteen (14) days of a second request for corrections during the permit review. If the meeting cannot resolve the issues and the city proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections.
- (f) The city shall prepare and provide an annual performance report that includes information outlining time periods for certain permit types associated with housing to the Department of Commerce in accordance with RCW 36.70B.080.

#### 20.16.275 Notice of Final Decisions.

- (a) Following the completion of any hearing, procedure, or administrative decision, the permit application shall be approved, approved with conditions, remanded, or denied and a written notice of decision shall be issued within five calendar days. The notice of decision shall include the final determination of approval or denial of the project, a statement of any threshold determination made under SEPA, and the procedure to appeal the notice of decision.
- (1) For Zoning Permit and Administrative Conditional Use Permit applications, a published notice of decision is not required. However, a memorandum or completed project checklist shall be placed in the permit file containing findings describing how the application was consistent/inconsistent with applicable zoning regulations and development standards.
  - (2) For Special Use Permit and Conditional Use Permit applications, a notice of decision shall be mailed or emailed to all parties of record, which shall include the applicant and each person who participated in the public hearing or who submitted comments during the public comment period at any time prior to the issuance of the decision. The notice of decision shall be posted on the city's website under public notices.
- (b) The notice of decision shall be attached and included with the Community and Economic Development Director's permit decision or the Hearing Examiner's decision.
- ~~(c) If the city is unable to issue its notice of decision within the allotted time frame, it shall provide written notice to the project applicant including the reasons the time limits have not been met and an estimated date for issuance of the notice of decision. The time limits established in this chapter do not apply if a permit application requires:~~
- ~~(1) An amendment to the Comprehensive Plan or development regulations; or~~
  - ~~(2) Substantial revisions by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete.~~

### 20.16.280 Expiration of Permits.

- (a) Zoning (other than for preliminary minor plats), special use, and conditional use (other than for preliminary major plats), ~~and sign permits~~ shall expire automatically if, within two years after the issuance of such permits:
- (1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use, or
  - (2) Less than ten percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development (see [§20.16.170, Completing Developments in Phases](#)), this requirement shall apply only to the first phase.
- (b) Administrative Conditional Use Permit shall expire one year after the issuance of such permit.
- ~~(b)(c)~~ Zoning permits for preliminary minor plats or conditional use permits for major plats shall expire automatically if, within five years after the issuance of such permits:
- (1) The plat has not been submitted for final plat, or
  - (2) A one-year extension has not been granted per Subsection (e).
- ~~(e)(d)~~ If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one year, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of [§20.16.350 \(Effect of Permit on Successors and Assigns\)](#).
- ~~(d)(e)~~ For zoning, special use, and conditional use other than for preliminary minor or major subdivisions, ~~and sign permits~~ the permit-issuing authority may extend for a period up to twelve months the date when a permit would otherwise expire pursuant to Subsections (a) or (b) if it concludes that: (i) the request was delivered in writing to the ~~Planning~~ Community and Economic Development Department at least thirty (30) calendar days prior to the permit's expiration date, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to twelve months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit, though a fee may be set by resolution for the processing of extensions.
- ~~(e)(f)~~ For permits for preliminary minor or major subdivisions the permit-issuing authority may extend for a period of 1 year from the date when a permit would otherwise expire pursuant to Subsections (a) or (b) if it concludes that (i) the request was delivered in writing to the Planning Department at least thirty calendar days prior to the permit's expiration, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may *not* be granted. All such extensions may be granted without resort to the formal processes and fees required for a new permit, though a fee may be set by resolution for the processing of extensions. Once a permit for a minor or major subdivision expires the subdivision may not be finalized and/or recorded.
- ~~(f)(g)~~ For purposes of this section, the permit within the jurisdiction of the Hearing Examiner is issued when he decides to approve the application and issue the permit. A permit within the jurisdiction of the Community and Economic Development Director is issued when the earlier of the following takes place:
- (1) A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand-delivered, ~~or~~ mailed, or emailed to the permit applicant; or
  - (2) The Community and Economic Development Director notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions.

~~(g)~~(h) Notwithstanding any of the provisions of §20.32 (Nonconforming Situations), this section shall be applicable to permits issued prior to the date this section becomes effective.

### Part III. Post Permit Requirements

#### 20.16.300 Reconsideration of Permit-Issuing Authority's Action.

- (a) Except as pursuant to Subsection (b), whenever (i) the Hearing Examiner disapproves a conditional use permit application, or (ii) the Community and Economic Development Director or Hearing Examiner disapproves an application for a special use permit or a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective permit-issuing authority at a later time unless the applicant clearly demonstrates that:
- (1) Circumstances affecting the property that is the subject of the application have substantially changed, or
  - (2) New information is available that could not with reasonable diligence have been presented at a previous hearing.
- (b) Whenever the permit-issuing authority approves or disapproves a permit application or variance the respective permit-issuing authority may reconsider such action if either the applicant or a party of record clearly demonstrates that in the written decision for the permit or variance either a finding of fact or testimony has been incorrectly recorded.
- (c) A request to be heard for reconsideration on this basis must be filed with the Community and Economic Development Director within the time period for an appeal to superior court (see §20.28.060, [Judicial Review](#)). However, such a request does not extend the period within which an appeal must be taken.
- (d) Notwithstanding Subsection (a), the Hearing Examiner or Community and Economic Development Director may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

#### 20.16.310 Appeal of Permits and Final Plats.

- (a) The action of the community and economic development director in granting or denying a permit or final plat may be reviewed for unlawful, arbitrary, capricious, or corrupt action to the hearing examiner. The petition for review must be filed within fourteen calendar days of the notice of final decision issued by the city (see §20.24 Appeals).
- (b) The action of the hearing examiner in granting or denying a special use or conditional use permit may be reviewed for unlawful, arbitrary, capricious, or corrupt action to Snohomish County Superior Court. The petition for review must be filed within twenty-one calendar days of the notice of final decision issued by the city (see §20.24 Appeals).

#### 20.16.320 No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled.

Issuance of a conditional use, special use, ~~or zoning permit~~, or administrative conditional use permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or to make necessary improvements to a subdivision. However, except as provided in §20.16.330 ([Authorizing Use or Occupancy Before Completion of Development Under Zoning Permit](#)), §20.16.340 ([Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special Use or Conditional Use Permits](#)), and §20.16.170 ([Completing Developments in Phases](#)), the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this title

and all additional requirements imposed pursuant to the issuance of a conditional use, ~~or~~ special use, zoning, or administrative conditional use permit have been complied with.

#### 20.16.330 Authorizing Use or Occupancy Before Completion of Development Under Zoning Permit.

In cases when, because of weather conditions or other factors beyond the control of the zoning permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning permit recipient to comply with all of the requirements of this title prior to commencing the intended use of the property or occupying any buildings, the Community and Economic Development Director may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this title are concerned) if the permit recipient provides a performance bond or other security satisfactory to the Community and Economic Development Director to ensure that all of the requirements of this title will be fulfilled within a reasonable period (not to exceed twelve months) determined by the Community and Economic Development Director.

#### 20.16.340 Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special Use or Conditional Use Permits.

- (a) In cases when, because of weather conditions or other factors beyond the control of the special use or conditional use permit recipient (exclusive of financial hardship) it would be extremely unreasonable to require the permit recipient to comply with all of the requirements of this title before commencing the intended use of the property or occupying any buildings or selling lots in a subdivision, the Community and Economic Development Director, in consultation with the Public Works Director and building official, may authorize the commencement of the intended use or the occupancy of buildings or the sale of subdivision lots (but, in the case of subdivisions, not before the subdivision is finalized and recorded) (insofar as the requirements of this title are concerned) if the permit recipient provides a performance bond or other security satisfactory to the board to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve months).
- (b) When the permit issuing authority imposes additional requirements upon the permit recipient in accordance with [§20.16.260 \(Additional Requirements on Zoning, Special Use, and Conditional Use Permits\)](#) or when the developer proposes in the plans submitted to install amenities beyond those required by this title, the Community and Economic Development Director, in consultation with the Public Works Director and building official, may authorize the permittee to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed (but, in the case of subdivisions, not before the subdivision is finalized and recorded) if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:
  - (1) A performance bond or other security satisfactory to the Community and Economic Development Director is furnished,
  - (2) A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made,
  - (3) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by [§20.28.040 \(Penalties and Remedies for Violations\)](#) and [§20.28.050 \(Permit Revocation\)](#).
- (c) With respect to subdivisions in which the developer is selling only undeveloped lots, the ~~council~~ Community and Economic Development Department may authorize final plat approval and the sale of lots before all the requirements of this title are fulfilled if the subdivided provides a performance bond or other security satisfactory to the ~~council~~ Community and Economic Development Director

and/or Public Works Director to ensure that all of these requirements will be fulfilled within not more than twelve months after final plat approval.

#### 20.16.350 Effect of Permit on Successors and Assigns.

- (a) Zoning, special use, and conditional use, ~~and sign~~ permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:
- (1) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and
  - (2) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice (as provided in Subsection (b)) of the existence of the permit at the time they acquired their interest.

#### 20.16.360 Effect of Approval of Zoning or Conditional Use Permits for Preliminary Minor or Major Subdivisions.

- (a) The approval of a zoning permit for a preliminary minor subdivision or a conditional use permit for a preliminary major subdivision constitutes approval of the general concept and layout of the plat as approved. Approval of a permit for a preliminary subdivision does not signify acceptance of engineering details of the plat. These engineering details remain subject to approval by the Community and Economic Development Director.
- (b) Once engineering details and specific design have been approved by the Community and Economic Development Director, the owner may obtain necessary permits and construct right-of-way, easement, and utility improvements approved in the permit for the preliminary subdivision.

#### 20.16.370 Amendments to and Modifications of Permits.

- (a) **Insignificant design deviations** from the permit (including approved plans) issued by the Hearing Examiner or the Community and Economic Development Director are permissible with the approval from ~~and~~ the Community and Economic Development Director. Such permission may be obtained through a written request without a formal application, but payment of any additional fee will be set by resolution. ~~may authorize such insignificant deviations.~~ A deviation is insignificant if it has no *discernible* impact on neighboring properties, the general public, or those intended to occupy or use the proposed development and only has insignificant changes (increase or decrease) to interior lot lines, dimensions of buildings, or design that does not change the overall project in number of units (density), square footage of commercial or residential buildings, number of parking stalls, square footage of park and/or open space, screening, or other code required aspects of the approved site plan. Each time an insignificant deviation is requested and approved, a memorandum from the Community and Economic Development Director with findings of fact shall be placed in the file for the permit from which it ~~is~~ was granted. If over time the number of insignificant deviations cumulatively requested have or will cause such cumulative changes so that over all they meet the criteria for a minor modification or change, the next subsequent insignificant deviation shall be treated as a modification as per subsection (b).
- (b) **Minor amendments** in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained through a written request without a formal application or public hearing, but ~~a~~ payment of any additional fee will be set by resolution.

For purposes of this section, amendments are those that have no *substantial* impact on neighboring properties, the general public, or those intended to occupy or use the proposed development and does not exceed ten percent (increase or decrease) of the total approved lots, ~~or~~ square footage of commercial or residential buildings, number of parking stalls, square footage of park and/or open space, screening, or other code required aspects of the approved site plan. Each time a minor modification or change is approved, a memorandum from the permit-issuing authority with findings of fact shall be placed in the file for the permit to which it ~~is~~ was granted. If over time the number of minor modifications or changes cumulatively requested have or will cause such cumulative changes meet the criteria for a major change, the next subsequent minor modification or amendment shall be treated as a major change and be processed per subsection (c).

- (c) **Major amendments** in permits (including approved plans) are permissible with the approval of the Hearing Examiner or permit-issuing authority. Such permission may be obtained with a formal application and public hearing, if required, and a payment of any additional fee that will be set by resolution. For purposes of this section, major amendments are those that have a substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development and does not exceed twenty-five percent (increase or decrease) of the total approved lots, ~~or~~ square footage of commercial or residential buildings, number of parking stalls, square footage of park and/or open space, screening, or other code required aspects of the approved site plan. Each time a major amendment is approved, a memorandum from the permit-issuing authority with findings of fact shall be placed in the file for the permit to which it ~~is~~ was granted. If over time the number of major amendments or changes cumulatively requested have or will cause such cumulative changes exceed the criteria for a major amendment, the next subsequent major amendment shall be treated as a new application and be processed as per subsection (d).
- (d) **All other requests for changes in approved plans will be processed as new applications.** If such requests are required to be acted upon by the Hearing Examiner or Community and Economic Development Director, new conditions may be imposed in accordance with [§20.16.260 \(Additional Requirements on Zoning, Special Use, and Conditional Use Permits\)](#), but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.
- (e) The Community and Economic Development Director shall determine whether amendments to and modifications of permits fall within the categories set forth above in Subsections (a), (b), and (c), and (d).
- (f) A developer requesting approval of changes shall submit a written request for such approval to the Community and Economic Development Director, and that request shall identify the changes. Approval of all changes must be given in writing.

#### 20.16.380 Maintenance of Common Areas, Improvements, and Facilities.

The recipient of any zoning, special use, or conditional use, ~~or sign permit~~, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this article or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

## Part IV. Land Division Permits

### 20.16.400 Regulation of Major, Minor and Unit Lot Subdivisions.

Major and minor subdivisions are subject to a two-step approval process. Physical improvements to the land to be subdivided are authorized by a conditional use permit or zoning permit, respectively as provided in [Part I through Part III](#) of [§20.16](#) (Permits and Land Division Approval) of this article, and sale of lots is permitted after final plat approval as provided in [§20.16.425](#) (Final Major and Minor Subdivision Approval Process).

### 20.16.405 Applicability.

The provisions of this section apply to each major or minor subdivision of land, or alteration or vacation thereof, applied for after the effective date of this Title except as listed below:

- (1) This section does not apply to cemeteries and other burial plots while used for that purpose.
- (2) This section does not apply to divisions of lands into lots or tracts each of which is one one-hundred twenty-eighths of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land. For purposes of computing the size of any lot under this paragraph, for a lot that borders on a street or road, the lot size shall be expanded to include that area which would be bordered by the centerline of a road or street and the side lot lines of the lot running perpendicular to such centerline.
- (3) This section does not apply to divisions made by testamentary provisions or by the laws of descent.
- (4) This section does not apply to boundary line adjustments.

### 20.16.410 No Subdivision Without Plat Approval.

- (a) Except as exempted by [§20.16.405 \(Applicability\)](#), no person may subdivide his land except in accordance with all of the provisions of this Title. In particular, no person may subdivide his land unless and until a final plat of the subdivision has been approved in accordance with the provisions of [§20.16.425 \(Final Minor or Major Subdivision Approval Process\)](#) and recorded in the Snohomish County Registry.
- (b) The Snohomish County Auditor may not record a plat of any subdivision within the city's planning jurisdiction unless the plat has been approved in accordance with the provisions of this Title.

### 20.16.415 Restrictions on Minor Subdivisions.

A lot that is created by a minor subdivision shall not be further divided by minor subdivision for a period of five years following the date of recordation of the last minor subdivision of the property. Any further subdivision proposed within said five-year period must be processed as a major subdivision, except as provided in RCW 58.17.060 as amended.

### 20.16.420 Vacations of Subdivisions.

Vacations of subdivisions are processed in the same manner as subdivisions, except that in addition to the information listed in [§20.16.200 \(Applications To Be Complete\)](#), the following information is also required to be submitted with applications for subdivision vacations:

- (a) The reasons for vacation.
- (b) Signatures of all parties having an ownership interest in that portion of the subdivision subject to vacation.
- (c) If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the subdivision or portion thereof.

20.16.425 Final Major and Minor Subdivision Approval Process.

- (a) The Community and Economic Development Director shall approve or disapprove final major subdivisions (plat) and final minor subdivisions (short plat) in accordance with the provisions of this section and per RCW 58.17.
- (b) The applicant for final subdivision plat approval, before complying with Subsection (c), shall submit the following to the Community and Economic Development Director for a determination of whether the approval process authorized by this section can be and should be utilized:
- (1) The required number of draft copies, as set by administrative policy, of the information required by Subsections (c) and (d).
  - (2) Mathematical lot closures showing error of closures not to exceed 0.005 times the square root of “n”, where “n” = number of sides and/or curves of a lot.
  - (3) A certification from a Professional Land Surveyor, licensed in the State of Washington, as to the survey data, layout of streets, alleys, and other rights-of-way. A licensed engineer acting on behalf of the City shall approve bridges, sewage, water systems, and other structures together with the information provided by the Professional Land Surveyor.
  - (4) A complete survey of the section or sections in which the plat is located, or as much thereof as may be necessary to properly orient the plat within the section or sections. A computer printout showing closures of the section or subdivision breakdown (if any), plat boundary, road centerlines, lots and tracts. The maximum allowable error of closure shall be .02 feet in any such closure.
  - (5) A title company certification which is not more than thirty calendar days old containing:
    - (A) A legal description of the total parcel sought to be subdivided; and
    - (B) A list of those individuals, corporations, or other entities holding an ownership interest in the parcel; and
    - (C) Any easements or restrictions affecting the property with a description, purpose and reference by auditors file number and/or recording number; and
    - (D) Any encumbrances on the property; and
    - (E) Any delinquent taxes or assessments on the property.
  - (6) An approved subdivision name reservation form from the Snohomish County Auditor’s Office.
  - (7) If lands are to be dedicated or conveyed to the City as part of the subdivision, an American Land Title Association title policy may be required.
  - (8) The Community and Economic Development Director may require the applicant to submit whatever other information is necessary to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all lots previously subdivided from that tract of land within the previous five years.
  - (9) No final major or minor subdivision may be submitted until the applicant has supplied the City with a copy of the signed as-builts and approved water & sewer bills of sale.
- (c) Once the Community and Economic Development Director is satisfied that Subsection (b) is met, the applicant for subdivision plat approval shall submit to the Community and Economic Development Director a final plat, drawn in waterproof ink on a sheet made of material that will be acceptable to the Snohomish County Auditor’s Office for recording purposes, and having dimensions as follows:
- (1) Major subdivisions: 18” x 24”.
  - (2) Minor subdivisions: 18” x 24”.

When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at:

- (3) Major subdivisions: one (1) inch equals not more than fifty feet, unless approved otherwise by the Community and Economic Development Director.

- (4) Minor subdivisions: one (1) inch equals not more than fifty feet unless approved otherwise by the Community and Economic Development Director.
- (d) In addition to the appropriate endorsements, as provided in §[20.16.445 \(Endorsements on Final Subdivisions and Binding Site Plans\)](#), the final plat shall contain the following information:
- (1) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Snohomish County Registry,
  - (2) The name and notarized signatures of the subdivision owner or owners,
  - (3) The location by Quarter Section/ Section/Township/ Range and/or by other legal description, the county, and state where the subdivision is located,
  - (4) The name, registration number, and seal of the Professional Land Surveyor responsible for preparation of the plat, and a certification on the plat by said surveyor to the effect that (i) it is a true and correct representation of the land actually surveyed by him/under his supervision; (ii) that the exterior plat boundary, and all interior lot corners have been set on the applicant's property by him/under his supervision using appropriate permanent materials, with a field traverse with a linear closure of one to ten thousand and corresponding angular closure as specified in W.A.C. 332.130.070 and 332.130.090; and, (iii) that all street centerline monuments (points of intersection, points of curve, points of tangency, etc.) within the plat and all intersections with existing street centerlines have been monumented with concrete monuments in case or other permanent material approved by the City.
  - (5) The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph. The drawing shall be of legible scale and shall include the north arrow and basis of bearings. Unless otherwise approved by the Community and Economic Development Director, the scale of the final plat will be at one inch equals fifty feet in order that all distances, bearings, and other data can be clearly shown.
  - (6) A boundary survey prepared by a Professional Land Surveyor, licensed in the State of Washington, shall be shown on the proposed plat and shall reference the plat to the Washington Coordinate System, North Zone (North American Datum, 1983, unless otherwise approved by the Department of Community and Economic Development) with a physical description of such corners. When the necessary G.P.S. points exist within one-half mile of the subject property they shall be located on the plat and used as primary reference datum.
  - (7) The boundary lines of the plat, based on an accurate traverse, with angular and linear dimensions.
  - (8) The exact location, width, number or name of all rights-of-way and easements within and adjoining the plat and a clear statement as to whether each is to be dedicated or held in private ownership.
  - (9) The true courses and distances to the nearest established right-of-way lines or official monuments that will accurately locate the plat.
  - (10) Curved boundaries and centerlines shall be defined by giving radii, internal angles, points of curvature, tangent bearings, and lengths of all arcs.
  - (11) All lot and block numbers and lines, with accurate dimensions in feet and hundredths of feet, and bearings to one second of arc. Blocks in numbered additions to subdivisions bearing the same name must be numbered consecutively through the several additions.
  - (12) Accurate locations of all monuments at such locations as required by the Community and Economic Development Director.
  - (13) All plat meander lines or reference lines along bodies of water, which shall be established above, but not farther than twenty (20) feet from the high waterline of the water or within a reasonable distance, to ensure reestablishment.
  - (14) Accurate outlines and dimensions of any areas to be dedicated or reserved for public use, with purposes indicated thereon and in the dedication; and/or any area to be reserved by deed covenant for common uses of all property owners.

- (15) A full and correct legal description of the property.
  - (16) All permanent restrictions and conditions on the lots or tracts or other areas in the plat required by the City.
  - (17) Any additional pertinent information required at the discretion of the Community and Economic Development Director or Public Works Director.
  - (18) An endorsement to be signed, prior to recordation, by the proper officer in charge of tax collections, certifying that all taxes and delinquent assessments have been paid, satisfied, or discharged.
  - (19) The following declaration: “All conditions of the preliminary [minor] plat, embodied within the Form of Decision [recorded with the Snohomish County Assessor/which is attached hereto as Exhibit], shall remain conditions of construction of the public improvements.”
- (e) Not more than 9 lots, including the existing lot, may be created out of one tract using the minor subdivision plat approval process within any five-year period measured from the date of the recording of the last minor plat on the property.
  - (f) No final major or minor subdivision may be recorded until the applicant has supplied the City a copy of the Final Plat and “as-built” construction plans in number and hard and electronic format acceptable to the Community and Economic Development Director.
  - (g) The Community and Economic Development Director and Public Works Director, shall approve the proposed major final subdivision unless they find that the plat or the proposed subdivision fails to comply with one or more of the requirements of this Title or that the final plat differs substantially from the plans, specifications, or conditions of approval approved in conjunction with the permit that authorized the development of the subdivision.
  - (h) If the final plat is disapproved, the applicant shall be furnished with a written statement of the reasons for the disapproval.
  - (i) All final plat approvals are subject to being recorded ~~in~~ with the Snohomish County ~~Registry Auditor~~ Registry Auditor by the applicant. The applicant is required to submit the final plat documents with all required notarized and official signatures to the city for review and signature within sixty-three (30) days of final plat approval. Once the city has signed the final plat documents the applicant is required to record the final plat documents with the Snohomish County Auditor within thirty (30) days of the date signed by the city. A conformed copy of the recorded documents shall be returned to the City of Arlington. ~~will be forwarded to the applicant. If the final plat documents are not recorded and a conformed copy is not returned to the city within this time period, the city may expire the final plat decision.~~

#### 20.16.430 Alteration of Recorded Final Major or Minor Subdivisions.

- (a) A recorded major or minor final plat may be altered, including the reconfiguration of any element graphically portrayed on a recorded final plat or the alteration of conditions, restrictions, easements, or other textual materials on the plat or with a recorded final plat. However, any change where an additional lot(s) is proposed shall not be considered a plat alteration and shall be processed as a new plat or minor plat.
- (b) The plat alteration provisions do not apply to corrections to recorded final plats or revisions to lot boundaries authorized pursuant to the boundary line adjustment provisions of [§20.16.440 \(Boundary Line Adjustments\)](#),
- (c) In addition to the application requirements of [§20.16.200 \(Applications To Be Complete\)](#), an application for a plat alteration shall contain:
  - (1) The signatures of a majority of those persons having an ownership interest in lots, tracts, parcels, sites, or divisions in the plat or portion to be altered.
  - (2) A certificate of title showing the names of all persons who would be affected by the proposed alteration, as well as any easements or other encumbrances on the property subject to the proposed alteration.

- (3) If the alteration proposes to change the recorded plat, a drawing prepared at the same scale as the recorded plat shall be submitted showing the details of the proposed alteration.
  - (4) If the alteration proposes a change to restrictions, conditions, or easements of a textual nature not depicted on the plat, a clearly written textual revision shall be submitted.
  - (5) A written statement of why the alteration is being requested and how the public interest would be served by its approval shall be submitted.
- (d) Applications for plat alterations shall be processed in the same manner as Special Use Permits, as specified in §[20.16.225 \(Special Use Permits and Conditional Use Permits\)](#), including the noticing requirement; except that notices shall also be provided to each property owner within the plat.
  - (e) The decision-making authority may approve a major or minor plat alteration if the application is found to be consistent with all applicable regulations.
  - (f) If testimony is presented and it is found that the proposed plat alteration would violate any restrictive covenants of the plat, the decision-making authority may deny the request unless such covenants are legally terminated or altered so as to accomplish the purpose of the alteration of the plat or portion thereof.
  - (g) Upon approval of a plat alteration the applicant shall produce a revised drawing and any other documents required to show the authorized changes to the final plat. The revised final plat shall bear the seal of a registered professional land surveyor, shall include the contents of a final plat, and shall be processed and recorded in the same manner as set forth for final plats. All persons with an ownership or security interest in the property to be altered must sign the altered plat prior to recording.
  - (h) Altered plats shall change, alter, or supersede the original plat only in the specific ways approved and set forth in the recorded documents.

#### 20.16.435 Major and Minor Binding Site Plans.

The intent and purpose of this chapter is to establish an alternative process by which the subdividing of commercial and industrial properties can be done, and which specifically depicts lot configurations, street and road improvements, utilities open space and other provisions to ensure a uniform development.

- (a) Applicability. Any person seeking a division of industrial or commercial land for the purpose of lease or sale or transfer of ownership of lots or upon which more than one principal building is to be constructed upon one lot of record is required to have an approved binding site plan prior to any division and development of property and shall be governed by the provisions of this chapter.
- (b) Standards. Binding site plans are subject to the following standards:
  - (1) The binding site plan shall ensure that the collective lots continue to function as one site with respect to, but not limited to, lot access, interior circulation, open space, landscaping, drainage facilities, facility maintenance and parking.
  - (2) The binding site plan shall:
    - (A) Identify the areas and locations of all streets, roads, improvements, utilities, open spaces, sensitive areas, parking areas, landscaped areas, surveyed topography (by a Washington State registered land surveyor) for map, water bodies and drainage features and building envelopes;
    - (B) Contain inscriptions or attachments setting forth such limitations and conditions for the use of the land as are established by the Community and economic Development Director or the hearing examiner; and
    - (C) Contain provisions requiring any development or division of land to be in conformance with the approved site plan.
    - (D) Contain requirements for street right-of-way realignment, dedication or widening either required by the city or by voluntary agreement.
    - (E) Adhere to all applicable provisions set forth in the land use code.

(3) Both the design and development shall preserve the trees and vegetation, natural drainage, existing topsoil, and wetlands/critical areas to the fullest extent that is reasonably possible.

(4) Conditions of use, maintenance and restrictions on redevelopment of required open space, parking, access and other improvements shall be identified and enforced by covenants, easements, dedications or other similar mechanisms.

(c) Submission Requirements. Binding site plans shall follow the standard subdivision submittal, review, resubmittal, and final approval process and recording requirements as that of that of the standard subdivision per RCW 58.17.

(d) Recording Requirements. All binding site plan approvals are subject to being recorded with the Snohomish County Auditor by the applicant. The applicant is required to submit the binding site plan documents with all required notarized and official signatures to the city for review and signature within thirty (30) days of the binding site plan approval. Once the city has signed the binding site plan documents the applicant is required to record the binding site plan with the Snohomish County Auditor within thirty (30) days of the date signed by the city. A conformed copy of the recorded documents shall be returned to the City of Arlington. If the binding site plan is not recorded and a conformed copy is not returned to the city within this time period, the city may expire the binding site plan decision.

(e) Performance Bonds. In lieu of completing the required improvements, the applicant may request final approval, subject to the approval of a suitable guarantee by the public works director. The guarantee must be in a form acceptable to the city and in an amount commensurate with improvements to be completed. The amount of the guarantee is established at one hundred fifty percent of the cost of the city having to construct the improvements.

Guarantee funds will not be released by the city unless approval has been received from all applicable departments that are reasonable for acceptance and/or maintenance of such improvements.

(f) Amendments and Vacations.

(1) Amendments. Once a binding site plan is recorded, any amendments from the site plan shall require the filing of an amended binding site plan. The application materials, procedures, review criteria, standards, etc., shall be the same as for the initial binding site plan.

(2) Vacation of a recorded binding site plan shall be approved administratively by the Community and Economic Development Director and/or his/her designee prior to recording.

(g) Insignificant Design Deviations. The Community and Economic Development Director or public works director may accept some deviations in code requirements when the binding site plan allows for viable sharing of facilities, including parking, landscaping, pedestrian access, and utilities.

#### 20.16.440 Boundary Line Adjustments.

(a) Minor lot line adjustments are exempt from the subdivision regulations. Minor lot line adjustments to existing legal lots are permitted when no new lots, tracts, or parcels are created through the process, and the adjusted lots either meet all zoning requirements of this Title, or, in the case where any of the existing legal lots are non-conforming, the adjustment would not create a greater non-conformity.

(b) Boundary lines may not be adjusted which will result in directional changes in the orientation of the lot(s), tract(s), parcel(s), or building site(s), such as the changing of front yards into side yards or vice versa; or when the adjustment will result in the City being unable to provide adequate utilities.

(c) Application for a Boundary Line Adjustment is made by submitting to the Community and Economic Development Director a Master Permit Application, a Standard Affidavit of Boundary

Line Adjustment, a survey of the subject property, a current title report (no older than 30 days), and the appropriate processing fee as set by resolution.

- (d) Said survey for a boundary line adjustment must be conducted by or under the supervision of a registered state-licensed land surveyor. The surveyor shall certify on the boundary line adjustment survey map that it is a true and correct representation of the lands actually surveyed in accordance with City and State law. The survey must indicate that all lot corners are found and staked; show existing and proposed lot lines and all encroachment(s), buildings, and setbacks from property lines; and provide the legal descriptions of the lots being adjusted before and after the boundary line adjustment.
- (e) When the applicant has complied with all of the requirements of this Section and State law and the Community and Economic Development Director has signed the boundary line adjustment, then the record of survey and the original affidavit of ownership shall be filed with the Snohomish County Auditor in accordance with RCW Chapter 58.09. The applicant is required to submit the boundary line adjustment documents with all required notarized and official signatures to the city for review and signature within thirty (30) days of the boundary line adjustment approval. Once the city has signed the boundary line adjustment documents the applicant is required to record the boundary line adjustment documents with the Snohomish County Auditor within thirty (30) days of the date signed by the city. A conformed copy of the recorded documents shall be returned to the City of Arlington. If the boundary line adjustment documents are not recorded and a conformed copy is not returned to the city within this time period, the city may expire the boundary line adjustment decision.

#### 20.16.445 Endorsements on Final Major and Minor Subdivisions.

- (a) All final subdivision, unit lot subdivisions, binding site plans, and boundary line adjustments shall contain signature endorsements on the cover page of the document.
- (b) Final major subdivision, unit lot subdivision, and binding site plans shall use endorsements (1) through (7) below.
- (c) Final minor subdivisions, unit lot subdivisions, and binding site plans shall use endorsements (1), (2) and (4) through (7) below.
- (d) Boundary Line Adjustments shall use endorsements (1) and (4) through (7) below.
- (e) Owner(s) and Surveyor signatures shall be notarized. If there are multiple owners, then additional owner signature lines shall be added, and all names notarized.





**(5) SURVEYORS CERTIFICATE & ACKNOWLEDGEMENT**

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AND ARLINGTON MUNICIPAL CODE 20.16.425 (d) (4) AND 20.16.445 (5). AT THE REQUEST OF (ENTER NAME OF COMPANY OR INDIVIDUAL OWNER), ON THE DATE OF THE SIGNATURE. I HEREBY CERTIFY THAT THIS PLAT OF (NAME OF SUBDIVISION) IS BASED UPON AN ACTUAL SURVEY AND SUBDIVISION OF (ENTER SECTION, TOWNSHIP, RANGE), WILLAMETTE MERIDIAN, THAT THE BEARINGS AND DISTANCES ARE CORRECTLY SHOWN, THAT ALL INFORMATION REQUIRED BY THE WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT IS SUPPLIED HEREIN; AND THAT ALL HORIZONTAL AND VERTICAL BOUNDARIES OF THE LOTS, TO THE EXTENT SUCH BOUNDARIES ARE NOT DEFINED BY PHYSICAL MONUMENTS, SUCH BOUNDARIES ARE SHOWN ON THE MAP.

\_\_\_\_\_  
(ENTER SURVEYOR NAME) DATE (SURVEYOR SEAL)  
PROFESSIONAL LAND SURVEYOR  
CERTIFICATE NO. (ENTER NUMBER)

STATE OF WASHINGTON )  
 ) SS.  
COUNTY OF SNOHOMISH )

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT (NAME OF PERSON) IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT (HE/SHE) SIGNED THIS INSTRUMENT AND ACKNOWLEDGE IT TO BE (HIS/HER) FREE AND VOLUNTARY ACT FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

DATED \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF NOTARY (NOTARY SEAL)

\_\_\_\_\_  
PRINT NAME OF NOTARY  
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,  
RESIDING AT \_\_\_\_\_  
MY APPOINTMENT EXPIRES \_\_\_\_\_

**(6) SNOHOMISH COUNTY TREASURERS CERTIFICATE**

I HEREBY CERTIFY THAT ALL STATE AND COUNTY TAXES HERETOFORE LEVIED AGAINST THE PROPERTY DESCRIBED HEREON, ACCORDING TO THE BOOKS AND RECORDS OF MY OFFICE, HAVE BEEN FULLY PAID AND DISCHARGED, INCLUDING \_\_\_\_\_ TAXES.

\_\_\_\_\_  
TREASURER, SNOHOMISH COUNTY BY: \_\_\_\_\_  
DEPUTY COUNTY TREASUER

PARCEL NUMBER: (ENTER PARCEL NUMBER(S))

**(7) AUDITORS CERTIFICATE**

FILED FOR RECORD AT THE REQUEST OF (ENTER COMPANY NAME OR OWNER) THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, YEAR, AT \_\_\_\_\_ MINUTES PAST \_\_\_\_\_ M, AND RECORDED IN VOLUME \_\_\_\_\_ OF PLATS, PAGE \_\_\_\_\_; AFN \_\_\_\_\_ RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

\_\_\_\_\_  
AUDITOR, SNOHOMISH COUNTY

BY: \_\_\_\_\_  
DEPUTY COUNTY AUDITOR

**20.16.450 Subdivision and Binding Site Plan Acceptance of Easements and Dedication Offers.**

- (a) Approval and recordation of a final subdivision or final unit lot subdivision constitutes acceptance by the city of the offer of easements and dedication of any streets, sidewalks, parks, or other public facilities shown on a plat. Upon recording of the final subdivision, the areas of dedication are the responsibility of the city.
- (b) Approval of a binding site plan does not constitute acceptance by the city of the offer of easements or dedication of any streets, sidewalks, parks, or other public facilities shown on a site plan. However, the city may accept any such offer of dedication or easement by resolution of the council or by actually exercising control over and maintaining such facilities.

**20.16.455 Protection Against Defects.**

- (a) Whenever (pursuant to [§20.16.340, Authorizing Use, Occupancy, or Sale Before Completion of Development Under Special Use or Conditional Use Permits](#)) occupancy, use or sale is allowed before the completion of all facilities or improvements intended for dedication, and a performance bond or the surety is posted pursuant to [§20.16.320](#), then the applicant shall also post a maintenance bond or other sufficient surety pursuant to [Part IX](#) of [§20.12](#) to guarantee that any defects in such improvements or facilities that appear within two years after the dedication of such facilities or improvements is accepted shall be corrected by the developer.
- (b) Whenever all public facilities or improvements intended for dedication are installed before occupancy, use, or sale is authorized, then the developer shall post a maintenance bond or other sufficient surety pursuant to [§20.12.830 \(Maintenance Securities\)](#) to guarantee that he will correct all defects in such facilities or improvements that occur within two years after the offer of dedication of such facilities or improvements is accepted.
- (c) An architect or engineer retained by the developer shall certify to the city that all facilities and improvements to be dedicated to the city have been constructed in accordance with the requirements of this article. This certification shall be a condition precedent to acceptance by the city of the offer of dedication of such facilities or improvements.
- (d) For purposes of this section, the term “defects” refers to any condition in publicly dedicated facilities or improvements that requires the city to make repairs in such facilities over and above the normal amount of maintenance that they would require. If such defects appear, the guaranty may be enforced regardless of whether the facilities or improvements were constructed in accordance with the requirements of this article.

**20.16.460 Maintenance of Dedicated Areas Until Acceptance.**

As provided in [§20.16.380 \(Maintenance of Common Areas, Improvements, and Facilities\)](#), all facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner until the appropriate public authority accepts such offer of dedication.