

Title 20

LAND USE AND DEVELOPMENT

Chapters:

- 20.01 Administration of Land Use and Zoning Applications and Development Regulations**
- 20.02 Effective Date – Conflicts – Severability**
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Chapter 20.01

ADMINISTRATION OF LAND USE AND ZONING APPLICATIONS AND DEVELOPMENT REGULATIONS

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20.01.010 Statutory authorization and purpose.

In enacting this title, the city council intends to establish an integrated permit review process, including environmental review, that implements the provisions of Chapter 36.70B RCW (the Regulatory Reform Act ESHB 1724) while ensuring compliance, conformity, and consistency of proposed projects with the city’s adopted comprehensive plan and development regulations. (Ord. 2000-006 § 3)

20.01.020 Definitions.

The following definitions shall apply throughout this title:

A. “Adjacent landowners” means the owners of real property, as shown by the records of the county assessor, located within 300 feet of any portion of the boundary of the proposed subdivision.

B. “Aggrieved party” is a party of record who can demonstrate the following:

1. The land use decision will prejudice the person;
2. The asserted interests are among those the city is required by city code to consider in making a land use decision; and

3. A decision on appeal in favor of the person would substantially eliminate or redress the prejudice alleged to be caused by the land use decision.

C. “Appellant” means a person, organization, association or other similar group who files a complete and timely appeal of a city decision.

D. “Applicant” means a person who is the owner of the subject property or the authorized representative of the owner of the subject property, and who has applied for land use permits.

E. “Board of adjustment” means a board appointed by the city council and created to hear and decide appeals of orders, decisions or determinations made by the staff and to authorize upon appeal in specific cases such vari-

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ances from the provision of the zoning ordinance or other land use regulatory ordinances as the city may adopt.

F. "City" means the city of Sequim, Washington.

G. "City council" means the city of Sequim city council.

H. "Closed record appeal" means an administrative appeal on the record to a local government body or officer, including the legislative body, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

I. Days. All days shall be calendar days.

J. "Department" means the planning department.

K. "Director" shall mean the planning department director or his/her designee.

L. Effective Date of Decisions. All preliminary and final decisions shall be effective on the date stated in SMC 20.02.010.

M. Effective Date of Notices. All notices provided to applicants and any members of the public shall be effective on the date deposited in the mail and when first published or posted on properties.

N. "Ministerial" means an action that allows for little description and requires adherence to previous decisions or adopted rules and regulations.

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

P. "Parties of record" means the land use permit applicant, persons who have testified at an open record hearing, and any persons who have submitted written comments concerning the application that form part of the public record that is considered at the open record hearing (excluding persons who only signed

petitions or mechanically produced form letters).

Q. "Project permit" or "project permit application" means any land use or environmental permit or license required from the city for a project action, including but not limited to subdivisions, planned unit developments, conditional uses, shoreline substantial development permits, permits or approvals required by Chapter 18.70 SMC, Wetlands Protection, and Chapter 18.80 SMC, Environmentally Sensitive Areas Protection, as amended, site-specific rezones authorized by the Sequim comprehensive plan or a formally adopted subarea plan, but excluding the adoption or amendment of the Sequim comprehensive plan, a subarea plan, or development regulations except as otherwise specifically included in this subsection.

R. "Public workshop" or "public meeting" means an informal meeting or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to a decision. A public workshop may include, but is not limited to, a design review, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public workshop may be recorded and a report or recommendation may be included in the local government's project permit application file.

S. "Sequim Municipal Code" means Sequim Municipal Code as amended.

T. "Type A-1 process" means a process which involves an application that is subject to clear, objective and nondiscretionary standards that require the exercise of professional judgment about technical issues and therefore does not require public participation.

U. "Type A-2 process" means a process which involves an application that is subject to objective and subjective standards that require the exercise of limited discretion about non-technical issues and about which there may be a limited public interest.

V. "Type B process" means a process which involves an application that is subject to standards that require the exercise of certain

discretion and about which there may be a considerable public interest.

W. “Type C-1, C-2, C-3 processes” means processes which involve applications that

require the exercise of substantial discretion and about which there is a broad public interest. (Ord. 2002-014; Ord. 2000-006 § 3)

20.01.030 Procedures for processing development project permits.

A. Project Permit Application Framework.

Table 1

Procedural Steps	Application Process					
	Type “A” Actions <i>Administrative</i>		Type “B” Actions <i>Board of Adjustment</i>	Type “C” Actions <i>Planning Commission and City Council</i>		
	Type A-1	Type A-2	Type B	Type C-1	Type C-2	Type C-3
Recommendations by:	N/A	N/A	Staff	Staff	Planning Commission	Staff
Notice of Application	No	Yes	Yes	Yes	Yes	No
Public Meeting/ Workshop	—	—	—	—	Planning Commission	—
Open Record Public Hearing	See Note ^a	See Note ^a	Yes Board of Adjustment	Yes Planning Commission	Yes City Council	No
Final Decision-making Body	Staff ^b	Staff ^b	Board of Adjustment ^b	Planning Commission	City Council	City Council
Appeal Authority	BOA ^c City Council	City Council ^d	Clallam County Superior Court	City Council	Clallam County Superior Court	Clallam County Superior Court

^aPublic hearing only if administrative decision is appealed, open record hearing before board of adjustment.

^bDenials of permits, boundary line adjustments and variances shall be reviewed by the city attorney for legality before becoming final.

^cAppeal authority for building and other construction permits; sign permits and boundary line adjustments. Subsequent appeals on these permits to Clallam County Superior Court.

^dSubsequent appeals on city council decisions to Clallam County Superior Court.

Table 2

Application Type							
Type A-1	Type A-2	Type B	Type C-1	Type C-2	Type C-3		
Building and other construction permit	SEPA determination	Variances	Major use permit	Comprehensive plan amendment	Final subdivision map		
Sign permit	Minor subdivision		Shoreline permit	Special use permit	Dedication of public easements and rights-of-way		
Boundary line adjustment	Minor conditional use permit					SMC land use related text amendment	Acceptance of public improvement
Minor amendments to PUDs	ESA and wetland permits					Site-specific rezone	
Home occupation						PUDs and major amendments	
Street use						Annexation	
ESA, shoreline and wetland exemptions						Street vacation	
						Preliminary major subdivisions	
		Preliminary binding site plan					

B. Types of Development Permit Applications. For the purpose of project permit processing, all development permit applications shall be subject to a Type A-1 and Type A-2 process (administrative), Type B process (board of adjustment), or Type C-1, Type C-2 and Type C-3 process (planning commission/city council) as defined in SMC 20.01.020. As defined in subsection A of this section, a Type A-1 shall be an administrative process which does not require public notice; a Type A-2 process shall be an administrative process which requires public notice; a Type B is a quasi-judicial process which requires a public hearing (the decisionmaking body for a Type B process shall be the board of adjustment); Type C-1 processes are quasi-judicial and require public hearings (the decisionmaking body for Type C-1 processes shall be the planning commission). Type C-2 are either quasi-judicial or legislative and require public hearings (the decisionmaking body shall be the city council). Type C-3 are largely ministerial and do not require a public hearing (the decisionmaking body for Type C-3 is the city council).

C. Exemptions from the requirements of project permit application processing as defined in this chapter are contained in SMC 20.01.070. (Ord. 2005-022 § 10; Ord. 2004-015 § 11; Ord. 2002-014; Ord. 2000-006 § 3)

20.01.040 Determination of proper type of procedure.

A. Type of Application. The act of classifying an application shall be a Type A-1 action. Classification of an application shall be subject to reconsideration and appeal at the same time and in the same way as the merits of the application in question.

B. Determination of Director. The director shall determine the proper procedure for all development applications. If there is a question as to the appropriate type of procedure, the director shall resolve it in favor of the higher procedure type letter as defined in SMC 20.01.030. (Ord. 2000-006 § 3)

20.01.050 Projects requiring two or more permit applications.

A. Optional Consolidation. A project that involves two or more permit applications may be subject to a consolidated project permit

review process as established in this chapter. The applicant may determine whether the applications shall be processed collectively or individually. If the applications are processed under the individual procedure option, the highest type procedure must be processed prior to the subsequent lower procedure.

B. Consolidated Permit Processing. When the project is reviewed under the consolidated procedure option, the highest procedure required for any part of the project application must be applied. All project permits being reviewed through the consolidated permit review process shall be included in the following:

1. Determination of completeness;
2. Notice of application;
3. Notice of final decision;
4. Single report stating all the decisions made and any mitigation required or proposed under the development regulations or the agency's authority under RCW 43.21C.060.

C. Public Hearing for Consolidated Applications. The review process shall provide for no more than one consolidated open record hearing and one closed record appeal. If an open record predecision hearing is provided prior to the decision on a project permit, the process shall not allow a subsequent open record appeal hearing.

D. Decisionmaker(s). Applications processed in accordance with subsection (B) of this section which have the same highest numbered procedure but are assigned different hearing bodies shall be heard collectively by the highest decisionmaker(s). The city council is the highest, followed by the board of adjustment, and then the director.

E. Consolidation with the Other Government Agencies. The city is also authorized to consolidate project review with the permit procedures of other government agencies. Joint public hearings with other agencies shall be processed according to SMC 20.01.060. (Ord. 2000-006 § 3)

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20.01.060 Joint public hearings (other public agency hearings).

A. Administrator’s Decision to Hold Joint Hearing. The administrator may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as:

1. The hearing is held within the city limits; and
2. The requirements of subsection (C) of this section are met.

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

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

1. The other agency is not expressly prohibited by statute from doing so;
2. Sufficient notice of the hearing is given to meet each of the agencies’ adopted notice requirements as set forth in statute, ordinance, or rule; and
3. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing. (Ord. 2000-006 § 3)

20.01.070 Exemptions from project permit application processing.

A. Project Permit Application Processing. Whenever a permit or approval in the Sequim Municipal Code has been designated as a Type A-1, A-2, B, C-1, C-2 or C-3 permit, the procedures in this title shall be followed in project permit processing, except for exemptions specified in this section.

B. Legislative Actions. The following Type C-2 decisions are legislative, and are not subject to the procedures in this chapter:

1. City of Sequim comprehensive plan adoption and amendments;

2. Municipal code amendments (zoning code text, development regulations and zoning district amendments);

3. Area-wide rezones to implement city policies contained within the city of Sequim comprehensive plan and any amendments thereto;

4. All other master land use and utility plans and amendments thereto.

The administrative procedures for the legislative decisions specified in this section are set forth coordinately by adopted ordinances. Nothing in this chapter or the permit processing procedures shall limit the authority of the city to make changes to the Sequim comprehensive plan, as part of an annual revision process, the city’s development regulations, or to undertake any other legislative actions.

C. SEPA Determination. SEPA determination is a Type A-2 action specifically excluded from the procedures set forth in this chapter, except for SMC 20.01.180. Procedures for SEPA determination shall follow Chapter 16.04 SMC, Environmental Policy, as amended, and SMC 20.01.180.

D. Exemptions. The following permits or approvals are specifically excluded from the procedures set forth in this title but must comply with any other statutory and regulatory requirements not found in this title:

1. Landmark designations;
2. Street vacations;
3. Annexations;
4. Capital improvement projects (CIPs) identified by city ordinance or resolution adopted after environmental review conducted in conjunction with the adoption or amendment of the city of Sequim comprehensive plan;
5. Judicially mandated actions;
6. Procedural actions as defined in WAC 197-11-800(20).

E. Type A-1 Administrative Permits. Pursuant to RCW 36.70B.140(2), administrative permits Type A-1, categorically exempt from environmental review under SEPA (Chapter 43.21C RCW and Chapter 16.04 SMC as amended), or for which environmental review has been completed in connection with other

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project permits, shall be excluded from the following procedures as defined by this chapter:

1. Determination of completeness;
2. Notice of application;
3. Notice of decision. (Ord. 2002-014; Ord. 2000-006 § 3)

20.01.080 Administrative approvals without notice (Type A-1) – Process overview.

A. Administrative Decision. The director shall approve, approve with conditions, or deny (with or without prejudice) all Type A-1 permit applications within 30 days after the date the determination of completeness was issued; provided, an applicant may agree in writing to extend the time in which the director shall issue a decision. The director may consider new evidence the applicant introduces with or after such a written request. The director may issue written findings and conclusions supporting Type A-1 decisions.

B. Notice of Decision. Notice of a decision regarding a Type A-1 process shall be mailed to the applicant and applicant's representative.

C. Appeal Procedure. The applicant may appeal the decision pursuant to SMC 20.01.240.

D. The director shall approve, approve with conditions, or deny (with or without prejudice) all Type A-1 permit applications, categorically exempt from environmental review under SEPA (Chapter 43.21C RCW and Chapter 16.04 SMC as amended), or for which environmental review has been completed in connection with other project permits, within 30 days after the date the application was submitted; provided, an applicant may agree in writing to extend the time in which the director shall issue a decision. (Ord. 2000-006 § 3)

20.01.090 Administrative approvals subject to notice (Type A-2) – Process overview.

A. Administrative Decision. The director shall approve, approve with conditions, or deny (with or without prejudice) all Type A-2 permit applications, subject to the determination of completeness, the notice of application,

the notice of decision and appeal requirements of this section.

B. Notice of Application. Within 14 working days after the date an application subject to a Type A-2 process was accepted as complete, the review authority shall issue a public notice of the pending review consistent with the requirements of SMC 20.01.140. Upon issuance of the notice of application the city shall provide the public notice of application for a project permit by enduring posting of the property, mailing and by publication in the city's official newspaper as provided in SMC 20.01.130.

C. Additional Posting. The review authority may also require notices to be posted in conspicuous places visible on the site or in the vicinity of a proposed action at least 10 working days before the close of the comment period.

D. Staff Report. The director shall issue written findings and conclusions supporting Type A-2 decisions.

E. Appeal Procedures. An applicant or other party of record who may be aggrieved by the administrative decision may appeal the decision to the board of adjustment; provided, that a written appeal is filed in conformance with SMC 20.01.240.

F. Public Hearing on Appeal. If a Type A-2 decision is appealed, an open record public hearing will be held before the board of adjustment consistent with the requirements of SMC 20.01.200. (Ord. 2000-006 § 3)

20.01.100 Type B and Type C-1 and C-2 procedures – Quasi-judicial decisions – Process overview.

A. Determination of Completeness and Notice of Application. All Type B, C-1 and C-2 procedures require the issuance of determination of completeness and notice of application consistent with SMC 20.01.130 and 20.01.140 coordinately. Upon issuance of the notice of application the city shall provide the public notice of application for a project permit by ensuring posting of the property, mailing and by publication in the city's official newspaper as provided in SMC 20.01.130.

B. Staff Report. At least seven days before a public hearing for all types of procedures, the administrator shall prepare a staff report on the proposed development or action summarizing the comments and recommendations of city departments, affected agencies and special districts, and evaluating the development's consistency with the city's development code as amended, adopted plans and regulations. The staff report shall include proposed findings, conclusions and recommendations for disposition of the development application. The staff report shall include and consider all written public comments on the application.

C. Recommendations. For Type B procedures, staff makes recommendations to the board of adjustment. For Type C-1 procedures, staff makes recommendations to the planning commission. For Type C-2 procedures, the planning commission makes its recommendations to the city council after a workshop or public meeting when public comments may be taken. Public comments taken at a public meeting may not be part of the testimony for any required later public hearing before the deciding body, but will be considered by the recommending body.

D. Required Findings. The planning commission or board of adjustment shall recommend to approve a proposed project if it first makes the following findings and conclusions:

1. The project is consistent with the Sequim comprehensive plan and meets the requirements and intent of the Sequim Municipal Code;

2. The project is not detrimental to the public health, safety and welfare;

3. The project adequately mitigates impacts identified under Chapters 16.04, Environmental Policy, and 18.80 SMC, Environmentally Sensitive Areas Protection, as amended.

E. Public Hearing. A public hearing on quasi-judicial decisions shall be held for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the city's development code, adopted plans and regulations.

F. Notice of Public Hearing. At least 10 working days before the date of the hearing for an application subject to Type B or Types C-1, C-2 review, the review authority shall issue a public notice. Notice of the public hearing shall be in accordance with SMC 20.01.190.

G. Notice of Public Meeting or Workshop. Notice shall be given consistent with RCW 36.70A.035, Public participation – Notice provisions.

H. Quasi-Judicial Action. Upon receiving a recommendation the board of adjustment (for Type B), planning commission (for Type C-1) or the city council (for Type C-2) shall hold an open record public hearing and make a decision on a recommendation, including consideration of any appeals of the recommendation.

I. Quasi-Judicial Decisions. A quasi-judicial decision on a recommendation following an open record public hearing shall include one of the following actions:

1. Approve as recommended;

2. Approve with additional conditions;

3. Modify, with or without the applicant's concurrence; provided, that the modifications do not:
 - a. Enlarge the area or scope of the project;

- b. Increase the density or proposed building size; or

- c. Significantly increase adverse environmental impacts as determined by the responsible official;

4. Deny without prejudice (reapplication or resubmittal is permitted);

5. Deny with prejudice (reapplication or resubmittal is not allowed for one year); or

6. Remand for further proceedings and/or evidentiary hearing in accordance with SMC 20.01.220. (Ord. 2002-014; Ord. 2000-006 § 3)

20.01.110 Preapplication consultation.

A. Optional Preapplication Consultation. Preapplication conferences for all Type A-1 applications not specified in subsection (B) of this section are optional, and requests for conferences will be considered on a time-available basis by the director.

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B. **Mandatory Consultation.** Applications for Type A-1 project permits subject to SEPA review, Type A-2, Type B, Type C-1 and Type C-2 actions shall not be accepted by the director unless the applicant has scheduled and attended a preapplication consultation. The purpose of the preapplication consultation is to acquaint the applicant with the requirements of the Sequim Municipal Code and the allow the director to provide the applicant with preliminary comments based upon the applicant's preliminary sketch of the proposal.

C. Preapplication consultation is not required if:

1. This code or the director expressly exempts the application(s) in question from preapplication review; and

2. The applicant submits a completed form provided by the review authority requesting waiver of preapplication consultation.

D. **Scheduling.** The consultation shall be held within 15 days of the request.

E. **Conceptual Design Review.** The applicant shall submit a completed preapplication request form and a preliminary sketch or conceptual design which illustrates the applicant's generalized ideas of the proposal at least seven days prior to preapplication consultation. The sketch or conceptual design shall include approximate lot lines, general topography of site, suggested vehicle access to the site, and provision of utilities. Final drawings are discouraged at this preapplication stage. Additionally, for the preapplication consultation, the applicant shall identify all land uses on adjacent properties and all platted and opened roads serving the site.

F. **Information Provided to Applicant.** At the consultation or within seven days following the consultation, the director shall provide the applicant with:

1. A form which lists the requirements for a completed application;

2. A general summary of the procedures to be used to process the application;

3. The references to the relevant code provisions or development standards which may apply to the approval of the application;

4. Information on all applicable application fees in effect at the time.

G. **Assurances Unavailable.** It is impossible for the preapplication conference to be an exhaustive review of all potential issues. The discussions at the conference or the forms provided by the city to the applicant under this section shall not bind or prohibit the city's future application or enforcement of all applicable law and ordinances. No statements or assurances made by city representatives shall in any way relieve the applicant of his or her duty to submit an application consistent with all relevant requirements of city, state, and federal codes, laws, regulations and land use plans.

H. **Consecutive Preapplication Consultation.** An applicant may request another preapplication consultation within one year after an initial preapplication consultation. There is not additional fee for a second consultation if the proposed development is substantially similar to the one reviewed or if it reflects changes based on information received at the first consultation. A request for a second preapplication consultation shall be subject to the same procedure as the request for the initial preapplication consultation.

I. **Fee.** The applicant shall pay the fee set forth in the fee ordinance for the preapplication consultation.

J. **Vesting.** Preapplication consultation does not vest an application. (Ord. 2000-006 § 3)

20.01.120 Permit application.

A. **Application Forms.** Applications for project permits shall be submitted upon forms provided by the director.

B. **Contents of the Application.** An application shall consist of all materials required by the applicable development regulations, and shall include the following general information:

1. A completed project permit application form, including SEPA checklist submitted pursuant to Chapter 16.04 SMC as amended when required;

2. A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the written consent of all owners of the

affected property. A photocopy of the property deeds shall be provided;

3. A property and/or legal description of the site, as required by the applicable development regulations;

4. The applicable fee;

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5. A site plan, showing the location of all proposed lots, points of access and utilities, and identifying all easements, deeds, restrictions, or other encumbrances restricting the use of the property, if applicable;

6. For land use permits requiring a Type A-2, B, C-1, C-2 and C-3 decision, assessor’s maps and a list of tax parcels and their owners for all properties within 300 feet of the property and properties to which public notice must be sent as provided in SMC 20.01.190;

7. Any supplemental information or special studies identified by the director or project planner;

8. In addition to the requirements of this section, complete application requirements for the land use permits set forth in the Sequim Municipal Code.

C. Requirements Waived. The director may waive specific submittal requirements determined to be unnecessary for review of an application. In such event, the director shall document the waiver in the project file or project log. (Ord. 2000-006 § 3)

20.01.130 Submission and acceptance of application – Determination of completeness – Additional information and project revisions.

A. Determination of Completeness. Within 28 days after receiving a project permit application, the city shall mail a determination to the applicant which states either:

1. That the application is complete; or
2. That the application is incomplete and what is necessary to make the application complete.

B. Identification of Other Agencies with Jurisdiction. To the extent known by the city, other agencies with jurisdiction over the project permit application shall be identified in the city’s determination required by subsection (A) of this section.

C. Incomplete Application Procedure.

1. If the applicant receives a determination from the city that an application is not complete or that additional information is required, the applicant shall have 120 days to submit the necessary information to the city.

Within 20 days after an applicant has submitted the requested additional information, the city shall make the determination as described in subsection (A) of this section, and notify the applicant in the same manner.

2. If the applicant either refuses in writing to submit additional information or does not submit the required information within the 120-day period, the director shall make a determination that the application has been abandoned and is therefore withdrawn, according to the procedures of a Type A-1 action as defined SMC 20.01.040.

3. In those situations where the director has deemed an application withdrawn because the applicant has failed to submit the required information within the necessary time period, the applicant will forfeit the application fee.

D. City’s Failure to Provide a Determination of Completeness. A project permit application shall be deemed complete under this section if the city does not provide a written determination to the applicant that the application is incomplete as provided in subsection (C) of this section. Notwithstanding a failure to provide a determination of completeness, the city may request additional information as provided in subsection (G) of this section.

E. Date of Acceptance of Application. When the project permit application is determined to be complete, the director shall accept it and note the date of acceptance.

F. Project Planner. Upon issuance of a determination of completeness described in subsection (A) of this section, the director shall assign a project planner to the project who will coordinate and be responsible for all phases of development application administration. At any stage during project review the director may assign a different project planner.

G. Additional Information. A project permit application is complete for the purposes of this section when it meets the submission requirements contained in SMC 20.01.120, as well as the submission requirements contained in the applicable development regulations. This determination of completeness shall be made when the application is sufficient for continued processing even though additional information may be required or project modi-

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fications may be undertaken after submittal. The city's determination of completeness shall not preclude the city from requiring additional information, that the applicant correct plans or perform studies at any time if new information is required for project review, or if there are substantial changes in the proposed action.

1. Pursuant to RCW 36.70B.090(1)(a)(i), any period during which the city has requested the applicant to correct plans, perform required studies, provide additional information or any remand or appeal periods shall be excluded from the time period provided in this chapter.

2. The time period for requiring additional information shall be calculated from the date the city notifies the applicant of the need for additional information until the date the city determines whether the information satisfies the request for information.

H. Effect of Project Permit Application Revisions – Substantial Revisions. If in the judgment of the director, the content of an application is so substantially revised by an applicant, either voluntarily or to conform with applicable standards and requirements, that such revised proposal constitutes a substantially different proposal than that originally submitted, the director shall deem the revised proposal to be a new application.

1. In reaching a decision whether a revision is substantial, the director shall consider the relative and absolute magnitude of the revision, the environmental sensitivity of the site, and changes in location of significant elements of the project and their relation to public facilities, surrounding lands and land uses and the stage of review of the proposal.

2. Lesser revisions that would not constitute substantial revisions during early stages of review may be substantial during later stages due to the reduced time and opportunity remaining for interested parties to review and comment upon such changes.

3. Written notice of such determination of substantial revision shall be provided to the applicant and all parties of record, including the reasons for the director's decision.

4. The revised project application shall be subject to all laws, regulations, and stan-

dards in effect on the date of the determination of completeness of the substantial revision. (Ord. 2000-006 § 3)

20.01.140 Application review – Notice of application – Referrals.

A. Time of Issuance. Within 14 days of issuing the determination of completeness, administrator shall issue a notice of application on all Type A-2, B, C-1, C-2 and C-3 project permit applications.

B. Contents. The notice of application shall include:

1. The name of the applicant or applicant's representative and the case file number for the application;

2. The date of application, the date of the determination of completeness for the application and the date of the notice of application;

3. The street address location of the project or if unavailable, the location in reference to roadway intersections;

4. A description of the proposed project action and a list of the project permits included in the application;

5. The identification of other permits required by other agencies with jurisdiction not included in the application, to the extent known by the city;

6. The identification of existing environmental documents that evaluate the proposed project and the location where the application and any studies can be reviewed;

7. The name of the city staff contact and telephone number;

8. A statement of the limits of the public comment period, which shall be at least 14 days following the date of notice of application or at least 30 days if the application involves a shoreline master program permit, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;

9. The date, time, place and type of hearing, if applicable and scheduled prior to issuance of the notice of application;

10. A statement of the preliminary determination of consistency with applicable development regulations and the Sequim com-

prehensive plan, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation and determination of consistency as provided in RCW 36.70B.040 and SMC 20.01.170;

11. Any other information determined appropriate by the city, such as the city's pending SEPA threshold determination or a statement advising that a final environmental determination shall be made following a comment period;

12. If a local government has made a determination of significance under Chapter 43.21C RCW concurrently with the notice of application, the notice of application shall be combined with the determination of significance and scoping notice. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application;

13. A statement that the final decision on the application will be made within the certain time period established by this chapter.

C. Methods of Public Notice of Application. Upon issuance of the notice of application the city shall provide the public notice of application for a project permit by ensuring posting of the property, mailing and/or by publication in the city's official newspaper, as provided in this subsection.

1. Posting. Posting of the property for site-specific proposals shall consist of one or more notice boards posted by the applicant or the applicant's representative. A single notice board shall be placed by the applicant at the midpoint of the site street frontage or as otherwise directed by the city for maximum visibility and where it is completely visible to pedestrians and vehicle traffic.

a. Additional notice boards may be required when:

- i. The site does not abut a public road;
- ii. A large site abuts more than one public road;
- iii. The director determines that additional notice boards are necessary to provide adequate public notice; or
- iv. The review authority may also require notices to be posted in conspicuous

places visible on the site or in the vicinity of a proposed action at least 10 days before the close of the comment period.

b. Notice boards shall be:

- i. Maintained in good condition by the applicant during the notice period;
- ii. In place at least 30 days prior to the date of predecision hearing; and
- iii. Removed by the applicant within 15 calendar days after the end of the notice period.

An affidavit of posting shall be submitted to the director by the applicant prior to the hearing or final comment date. If the affidavit is not filed as required, any scheduled hearing or date by which the public may comment on the application, will be postponed in order to allow compliance with this notice requirement. Notice boards shall be constructed and installed in accordance with specifications promulgated by staff.

2. Published Notice. The notice of application shall be published in the city's official newspaper of general circulation. Published notice shall include at least the project's street address or location, project description, type of permit(s) required, comment period dates, and location where the complete application may be reviewed.

3. Mailing. The notice of application shall be mailed to:

- a. The applicant and the applicant's representative;
- b. Owners of property within a radius of 300 feet of the edge of the property that is the subject of the application;
 - i. The records of the Clallam County assessor shall be used for determining the property owner of record;
 - ii. Failure of a property owner to receive notice does not invalidate the decision if the notice was sent; a sworn certificate of mailing executed by the person who did the mailing shall be conclusive evidence that notice mailed to parties listed or referenced in the certificate; and
 - iii. If the applicant owns property adjoining or across a right-of-way or easement from the property that is subject of the application, then notice shall be mailed to owners of

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property within a 300-foot radius, from the edge of the property owned by the applicant adjoining or across a right-of-way or easement from the property that is subject of the application;

c. Other people the review authority believes may be affected by the proposed action or who request such notice in writing.

4. Referrals of Notice of Application. Notice of the filing of a preliminary plat application of a proposed subdivision located adjoining the city's municipal boundaries shall be given to the appropriate county officials.

5. Referrals to DOT. Notice of the filing of a preliminary plat application of a proposed subdivision located adjacent to the right-of-way of a state highway shall be given to the Washington State Secretary of Transportation, who must respond within 15 days of such notice.

6. Referral and Review of Development Permit Applications. Upon acceptance of a complete application, the director shall transmit a copy of the application, or appropriate parts of the application, to each affected agency and city department for review and comment, including those agencies responsible for determining compliance with state and federal requirements. The affected agencies and city departments shall have 15 days to comment. The director may grant an extension of time if needed.

7. Public Inspection Files. Department shall maintain for public review a list of pending projects (public inspection files), including project status. However, the failure by the department to maintain and update the project status list shall not be grounds for invalidation of any permit decision.

D. Public Comment on the Notice of Application. A notice of application for shoreline substantial development permit shall notify the public of the 30-day comment period. Comment period on all other types of applications shall be at least 20 days. All public comments on the notice of application must be received in the department by 4:00 p.m. on the last day of the comment period. Comments may be mailed, personally delivered or sent by facsimile. Comments should be as specific as

possible. Public comments may be provided at any time up to and during the public hearing. However, the city cannot ensure that comments provided after the comment period on the notice of application will be considered and addressed in project review or in staff reports.

E. Hearing Is Required. If a predecision hearing is required, the notice of application shall be issued at least 30 days prior to the hearing. (Ord. 2000-006 § 3)

20.01.150 Application review – Notice of application – Shoreline master program (SMP) permits.

A. Shoreline Master Program Permits. SMP permits require notice as provided in SMC 20.01.140 and additional mailing of the notice as provided herein.

B. Mailing. The notice of application shall be mailed to the latest recorded real property owners as shown by the records of the county assessor within at least 300 feet of the boundary of the property upon which the development is proposed.

C. Content of SMP Notice. Except as provided in subsection (D) of this section, the content of SMP notices shall be identical to the notice set forth in SMC 20.01.140.

D. SMP Comment Period. A notice of application for a shoreline substantial development permit shall notify the public of the 30-day comment period. (SMP notice is 10 days longer than the comment period for other permits as required by RCW 90.58.140.) (Ord. 2000-006 § 3)

20.01.160 Optional additional public notice.

A. Optional Public Notices. As optional methods of providing public notice of any project permits, the city may:

1. Notify the public or private groups with known interest in a certain proposal or in the type of proposal being considered;
2. Notify the news media;
3. Place notices in appropriate regional or neighborhood newspapers or trade journals;
4. Publish notice in agency newsletters or send notice to agency mailing lists, either

general lists or lists for specific proposals or subject areas;

5. Mail to potentially affected property owners; and

6. Place notices on the Internet.

B. Failure to Provide Optional Public Notice. The city's failure to provide the optional notice as described in this section shall not be grounds for invalidation of any permit decision. (Ord. 2000-006 § 3)

20.01.170 Application review – Scope of review.

A. Foundation of the Review. Fundamental land use planning choices made in adopted comprehensive and subarea plans and development regulations shall serve as the foundation for project review. The review of a proposed project's consistency with applicable development regulations, or in the absence of applicable regulations the adopted Sequim comprehensive plan or subarea plan(s) shall incorporate the determinations in this section.

B. Project Consistency. During project review, the director or any subsequent reviewing body shall determine a proposed project's consistency with development regulations adopted under Chapter 36.70A RCW (the GMA), or, in the absence of applicable development regulations, the appropriate elements of the Sequim comprehensive plan or subarea plan adopted under Chapter 36.70A RCW shall be determined by consideration of:

1. The type of land use, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;

2. The level of development, such as units per acre or other measures of density;

3. Infrastructure, including public facilities and services needed to serve the development, and availability and adequacy of public facilities identified in the Sequim comprehensive plan, if the plan or development regulations provide for funding of these facilities;

4. The character of the development, such as development standards.

During project review, the director shall not reexamine alternatives to or hear appeals on the items identified in subsection (B) of this section.

C. Consistency. For purposes of this section, the term "consistency" shall include all terms used in this chapter and Chapter 36.70A RCW to refer to performance in accordance with this chapter and Chapter 36.70A RCW, including but not limited to compliance, conformity, and consistency. Nothing in this section requires documentation, dictates procedures for considering consistency, or limits the director from asking more specific or related questions with respect to any of the four main categories listed in subsections (B)(1) through (4) of this section. (Ord. 2000-006 § 3)

20.01.180 Application review – Integrated SEPA review.

A. Environmental Review. Project review conducted pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, shall occur concurrently with project review set forth in this chapter. The SEPA review process, including all public comment procedures, is set forth in Chapter 16.04 SMC, Environmental Policy, as amended. Nothing contained in this chapter shall be construed to restrict the need for full environmental review in accordance with Chapters 16.04, 18.70 and 18.80 SMC, as amended.

B. Public Comment Period on the Notice of Application and the Issuance of the SEPA Determination. Except for a determination of significance, the SEPA official may not issue its threshold determination, or issue a decision or a recommendation on a project permit until expiration of the public comment period on the notice of application.

C. Single Staff Report. If a SEPA threshold determination is not issued before a staff report and an open record predecision public hearing is not needed (Types A-1 and A-2), a determination of nonsignificance shall be issued with the single staff report on a project permit.

D. Predecision Hearing. If a predecision public hearing is required (Types B, C-1, C-2 and C-3), the threshold determination shall be issued at least 21 days prior to the open record

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predecision hearing and may be combined with the notice of the open record public hearing. If a predecision public hearing is required, an appeal of any determination of nonsignificance shall be submitted prior to and combined with the predecision open record public hearing.

E. Director's Determination. The director may determine that the requirements for environmental analysis and mitigation measures in development regulations and other applicable laws provide adequate mitigation for some or all of the project's specific probable significant adverse environmental impacts to which the requirements apply. In making this determination, the director shall:

1. Determine if the applicable regulations require measures that are sufficient to adequately address site-specific, probable significant adverse environmental impacts identified through project application review; and

2. Determine whether additional studies are required and/or whether the project permit application should be conditioned with additional mitigation measures.

F. Appeals. SEPA determination of nonsignificance may be appealed consistent with appeal requirements for SEPA determinations established in this chapter. Notice and appeal of a determination of significance shall follow Chapter 43.21C RCW and Chapter 197-11 WAC.

G. Nothing in this section limits the authority of the city to approve, condition, or deny a project as provided in its development regulations adopted under Chapter 36.70A RCW and in its policies and criteria adopted under RCW 43.21C.060, including project review under Chapter 16.04 SMC, Environmental Policy, and Chapter 18.80 SMC, Environmentally Sensitive Areas, as amended. (Ord. 2000-006 § 3)

20.01.190 Notice of public hearing.

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

1. No mailed public notice is required for Types A-1 and A-2 actions because no public hearing is held.

2. The notice of public hearing for Type B and Types C-1, C-2, and C-3 actions shall be mailed to:

- a. The applicant;

- b. All adjacent property owners within 300 feet of any portion of the subject property. (Note: If the applicant owns another parcel or parcels of real property which lie adjacent to the real property subject to development application, mailed notice shall be given to owners of real property located within 300 feet of such adjacently located parcels owned by the applicant);

- c. Any person who submits written comments on an application.

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

1. The name and address of the applicant or the applicant's representative;

2. Description of the affected property, including the street address (if any) and either a vicinity location (including roadway intersections) or written description, other than a legal description, reasonably sufficient to inform the public of the location;

3. The date, time and place of the hearing;

4. A description of the nature of the proposed use or development;

5. A statement that all interested persons may appeal at the hearing and provide oral or written comments or testimony;

6. Where information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be submitted;

7. The name of the city staff contact or representative and the telephone number where additional information may be obtained;

8. That a copy of the application and staff report, and all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at the department at no cost.

C. General Procedure for Mailed Notice of Public Hearing.

1. The records of the Clallam County assessor's office or an adjacent property own-

ership list prepared by a licensed title company shall be used for determining the property owner(s) of record. The applicant shall provide the list of property owner(s) of record to the department. Addresses for a mailed notice required by this chapter shall be obtained from the county's real property tax records. The director shall issue a sworn certificate affirming the mailing of notice to all persons entitled to notice under this chapter. The director may provide notice to other persons than those required to receive notice under the chapter.

2. All public notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first.

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

1. Posted notice of the public hearing is required for all Type B and Type C-1, C-2, C-3 project permit applications. The posted notice shall be posted as required by SMC 20.01.140 for notice of application.

2. Published notice is required for all procedures involving a public hearing. The published notice shall be published in the city's official newspaper.

E. Other Method of Providing Notice. An additional notice of the hearing may be given to adjacent property owners by any other reasonable method the city deems necessary.

F. Time and Cost of Notice of Public Hearing.

1. Notice of a public hearing shall be mailed, posted and first published not less than 10 nor more than 45 days prior to the hearing date. Any posted notice shall be removed by the applicant within 15 days following the public hearing.

2. All costs associated with the public notice shall be borne by the applicant.

G. Optional Additional Notice. As optional methods of providing notice of public hearing, the city may notify the public or private groups with known interest in a certain proposal or in the type of proposal being considered.

H. Notice of Application. The notice of application shall not be a substitute for the required notice of a public hearing. (Ord. 2000-006 § 3)

20.01.191 Notice of public meetings.

Public meetings of the planning commission, board of adjustment and city council shall comply with applicable notice requirements of the Open Public Meetings Act, Chapter 42.30 RCW, and, if applicable, notice shall be given consistent with RCW 36.70A.035, Public participation – Notice provisions. (Ord. 2002-014)

20.01.200 Procedures for public hearings.

Public hearings shall be conducted in accordance with the hearing body's rules of procedure and shall serve to create or supplement an evidentiary record upon which the body will base its decision. Questions directed to the staff or the applicant shall be posed by the chair at its discretion. In cases where scientific standards and criteria affecting project approval are at issue, the chair shall allow orderly cross-examination of expert witnesses presenting reports and/or scientific data and opinions. The hearing body may address questions to any party who testifies at a public hearing. The chair shall open the public hearing and, in general, observe the following sequence of events:

A. Staff presentation, including submittal of any administrative reports. Members of the hearing body may ask questions of the staff.

B. Applicant presentation, including submittal of any materials. Members of the hearing body may ask questions of the applicant.

C. Testimony or comments by the public germane to the matter.

D. Rebuttal, response or clarifying statements by the staff and the applicant.

E. The evidentiary portion of the public hearing shall be closed and the hearing body shall deliberate on the matter before it. (Ord. 2000-006 § 3)

20.01.201 Procedures for public meetings.

The city council, planning commission and board of adjustment may adopt by majority vote the process for their respective public meetings. Generally a public meeting does not involve formal public comment. A public meeting is not a public hearing. The city council, planning commission and the board of

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adjustment may, but are not required to, provide for written comments or questions prior to a meeting to assist that body in its actions at its public meeting and may allow comments at a public meeting.

A. Recommendations from Planning Commission. The recommendation from the planning commission, after public meetings or workshops, on Type C-2 decisions will be the subject of a public hearing at the city council. (Ord. 2002-014)

20.01.210 Reconsideration.

A party of record at a public hearing may seek reconsideration only of a final decision by filing a written request for reconsideration with the director within five days of the oral announcement of the final decision. The request shall comply with SMC 20.01.240. The council or hearing body shall consider the request at its next regularly scheduled meeting, without public comment or argument by the party filing the request. If the request is denied, the previous action shall become final. If the request is granted, the council or hearing body may immediately revise and reissue its decision or may call for argument in accordance with the procedures for closed record appeals. Reconsideration should be granted only when an obvious legal error has occurred or a material factual issue has been overlooked that would change the previous decision. (Ord. 2000-006 § 3)

20.01.220 Remand.

In the event the board of adjustment or the city council determines that the public hearing record, the record on appeal or the administrative decision are insufficient or otherwise flawed, the council may remand the matter back to the planning commission, board of adjustment or director, as applicable, to correct the deficiencies. The council shall specify the items or issues to be considered and the time frame for completing the additional work. The council may hold an open record public hearing on an appeal of planning commission recommendation only for the limited purposes identified in RCW 34.05.562(1) (involving

allegations challenging the legal validity of the planning commission proceedings). (Ord. 2000-006 § 3)

20.01.230 Final decision.

A. Time. The final decision on a development proposal subject to Type A-2, B, C-1, C-2 or C-3 actions shall be made within 120 days from the date of the determination of completeness. In determining the number of days that have elapsed after the determination of completeness, the following periods shall be excluded:

1. Any time needed to amend the Sequim comprehensive plan or development regulations.

2. Pursuant to SMC 20.01.130, any time required to correct plans, perform studies or provide additional information; provided, that within 14 days of receiving the requested additional information, the director shall determine whether the information is adequate to resume the project review.

3. Pursuant to SMC 20.01.130, substantial project revision(s) made or requested by an applicant, in which case the 120 days will be calculated from the time that the city determines the revised application to be complete and issues a new determination of completeness in accordance with SMC 20.01.130.

4. All time required for the preparation and review of an environmental impact statement as provided in Chapter 16.04 SMC as amended. Additional time may be allowed, with the written concurrence of the applicant.

5. Any time needed to process an application for projects involving the siting of an essential public facility.

6. An extension of time mutually agreed upon by the city and the applicant in writing.

7. Any remand to the planning commission, board of adjustment or director.

B. Effective Date. The final decision of the council or hearing body shall be effective on the date stated in the decision, motion, resolution, or ordinance; provided, that the appeal periods shall be calculated from the date of issuance of the land use decision, as provided

in the Land Use Petition Act, Chapter 36.70C RCW. For the purposes of this chapter, the date on which a land use decision is issued is:

1. Three days after a written decision is mailed by the city, or, if not mailed, the date on which the city provides notice that a written decision is publicly available;

2. If the land use decision is made by ordinance or resolution by the city council sitting in a quasi-judicial capacity, the date the city council passes the ordinance or resolution;

3. If neither subsection (B)(1) nor (2) of this section applies, the date the decision is entered into the public record.

C. Notice of Decision. Upon issuance of the final decision, the department shall mail or hand-deliver a copy of the final decision to the applicant, any persons who have filed a written request for a copy of the decision, and to all persons who submitted substantive written comments on the application. The notice of decision shall include a statement of the threshold determination made under Chapter 16.04 SMC as amended and the procedures for an appeal (if any) of the permit decision or recommendation.

D. Notice of Delayed Decision. If the city is unable to issue its final decision within 120 days from the date of the determination of completeness, the city shall provide written notice of this fact to the applicant. The notice shall contain a statement of reasons consistent with subsection (A) of this section why the time limits have not been met and an estimated date for issuance of the final decision. (Ord. 2000-006 § 3)

20.01.240 Appeals.

A. Appeal of Administrative Interpretations and Decisions. Administrative interpretations and administrative Type A-1 and Type A-2 decisions may be appealed, by applicants or parties of record, to the board of adjustment. Determinations of nonsignificance may be appealed to the city council. An appeal of a determination of significance shall follow Chapter 43.21C RCW and Chapter 197-11 WAC.

B. Consolidated Public Hearing. All appeals of SEPA threshold determinations made pursuant to Chapter 16.04 SMC as amended (other than determinations of significance) shall be considered together with the decision on the project application in a single, consolidated public hearing.

C. Appeal of Planning Commission and Board of Adjustment Decisions. Decisions of the planning commission or board of adjustment may be appealed, by parties of record from the hearing, to the city council.

D. Recommendations from Planning Commission. The recommendation from the planning commission, after public meetings or workshops, will be the subject of a public hearing at the city council.

E. Procedures for Appeals. Appeals shall be conducted in accordance with the board of adjustment's and city council's rules of procedure and shall serve to provide argument and guidance for the body's decision. The parties to an appeal of a planning commission recommendation may submit timely written statements or arguments.

F. Filing. Every appeal shall be filed with the director within 21 days after the date of the decision of the matter being appealed became final. A notice of appeal shall be delivered to the department by mail or personal delivery, and must be received by 4:00 p.m. on the last business day of the appeal period, with the required appeal fee.

G. Contents of the Notice of Appeal to the Board of Adjustment or the City Council. The notice of appeal shall contain a concise statement identifying:

1. The decision being appealed;
2. The name and address of the appellant and his/her interest(s) in the matter;
3. The specific reasons why the appellant believes the decision to be wrong. The appellant shall bear the burden of proving the decision was wrong;
4. The desired outcome or changes to the decision; and
5. The appeal fee.

H. Board of Adjustment of City Council Actions on Appeal. Decision following an appeal hearing shall include one of the following actions:

1. Grant the appeal in whole or in part.
2. Deny the appeal in whole or in part.
3. Remand for further proceedings and/or evidentiary hearing in accordance with SMC 20.01.220.

I. Judicial Appeal. Appeals from the final decision of the board of adjustment or the city council on Type B, Types C-1, C-2 and C-3 procedures and appeals from any other final decisions specifically authorized (subject to timely exhaustion of all administrative remedies) shall be made to Clallam County superior court within 21 calendar days of the date the decision or action becomes final, as defined in SMC 20.01.230, unless another time period is established by state law or local ordinance. All appeals must conform with procedures set forth in Chapter 36.70C RCW. The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. Prior to the preparation of any records, the appellant shall post with the city clerk an advance fee deposit in the amount specified by the city clerk. Any overage will be promptly returned to the appellant. (Ord. 2002-014; Ord. 2000-006 § 3)

Chapter 20.02

**EFFECTIVE DATE –
CONFLICTS – SEVERABILITY**

Sections:

- 20.02.010 Effective date.
- 20.02.020 Conflict with other procedures.
- 20.02.030 Severability.

20.02.010 Effective date.

Applications received prior to the adoption of the ordinance codified in this title shall be processed under the regulations in place at the time the application was received. (Ord. 2000-006 § 3)

20.02.020 Conflict with other procedures.

In the event of a conflict in project application and/or public hearing procedures found elsewhere in the Sequim Municipal Code and the requirements of this title, the requirements and procedures set forth in this title shall prevail. (Ord. 2000-006 § 3)

20.02.030 Severability.

If any clause, sentence, paragraph, section or part of this title or its application to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such order or judgment shall not affect the validity or constitutionality of the remainder of any part of this title. To this end, the provisions of each clause, sentence, paragraph, section or part of this law are declared severable. (Ord. 2000-006 § 3)

Chapter 20.05

FEE SCHEDULE

Sections:

20.05.010 Fee schedule.

20.05.010 Fee schedule.

Fees and charges for services shall be as established by resolution. (Ord. 2005-029 § 2)

