



City Council Committee Meeting Agenda

Community Development Committee

This meeting will be conducted in person at City Hall at 10220
270th Street NW, Stanwood, WA 98292

<https://www.stanwoodwa.org>

Thursday, October 3, 2024, at 5:00 PM

1. Brick Road Design Review
2. Procedures Code Amendment
3. Bakerview Final Plat



**CITY OF STANWOOD
COMMUNITY DEVELOPMENT COMMITTEE
AGENDA STAFF REPORT**

DATE: October 3, 2024

SUBJECT: October CDC Agenda Topics

FROM: Patricia Love, Community Development Director
Tansy Schroeder, Senior Planner

Brick Road Design Review

As part of the continuation of the Twin City Mile Revitalization Project, the following “Brick Road” concepts have been prepared for 270th Street between Camano Street and 102nd Avenue. These concepts were based on the original inspirational drawings with some changes to address construction costs.

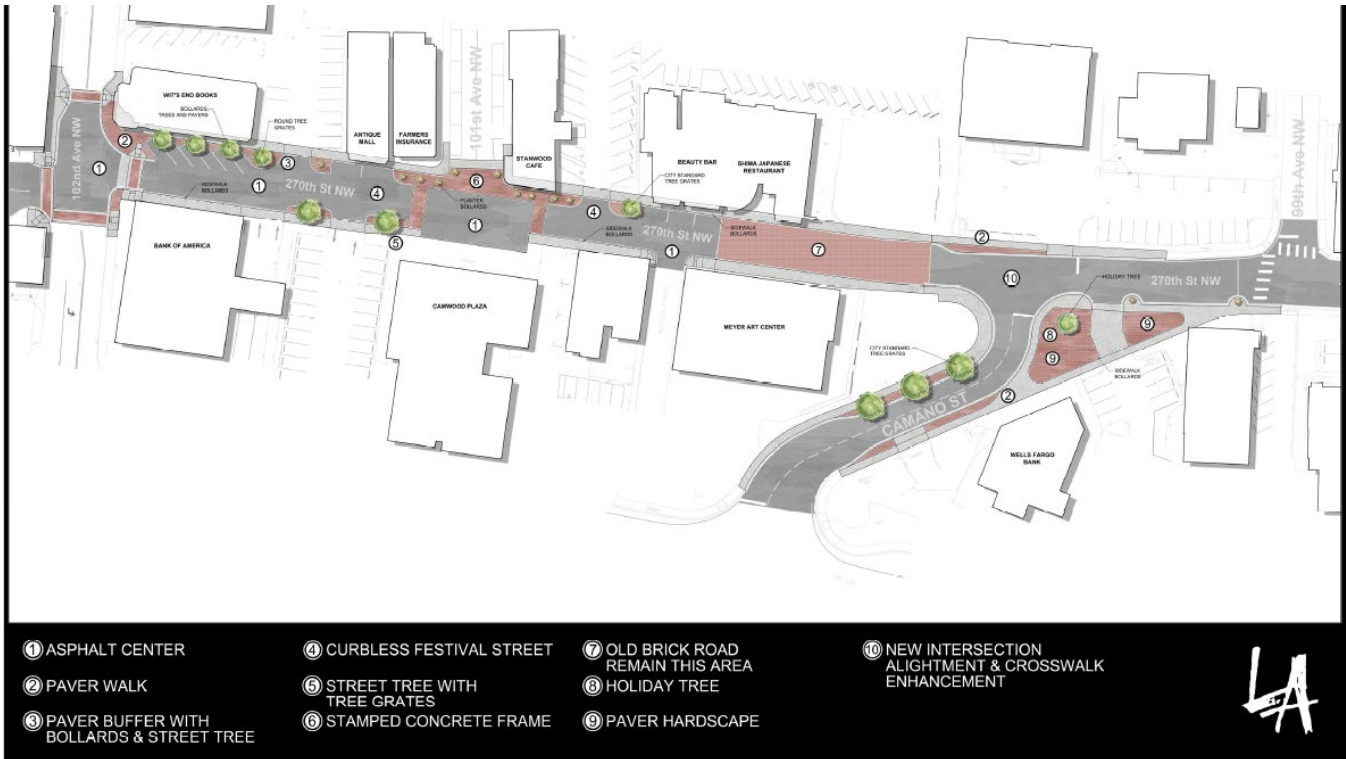
- Not raising the full length of the road to be level with the sidewalk;
- Reducing the “festival square” at 101st Street to respect property boundaries;
- Mixing stamped concrete with asphalt paved overlay;
- Keeping the existing brick in front of the arts center building (old furniture store); and
- Optional mini traffic circle at Camano Street.

There are also plans to add vegetation as well as sidewalk bollards. A cost-estimate for these improvements is in the process of being determined. After the public engagement period, the concepts will be refined and then brought to the City Council for formal approval.

These concepts will also be presented to area businesses with a tentative open house date of October 16 from 8-10am. A second open house for community members will be held on Thursday, October 17 from 5-7pm.

Once approved by Council, city staff will assess funding opportunities and the timeline for construction. Council recently approved beautification and traffic calming concepts for 271st Street NW, as well as for Depot Park – a new micro-park that will be constructed near the AMTRAK station.

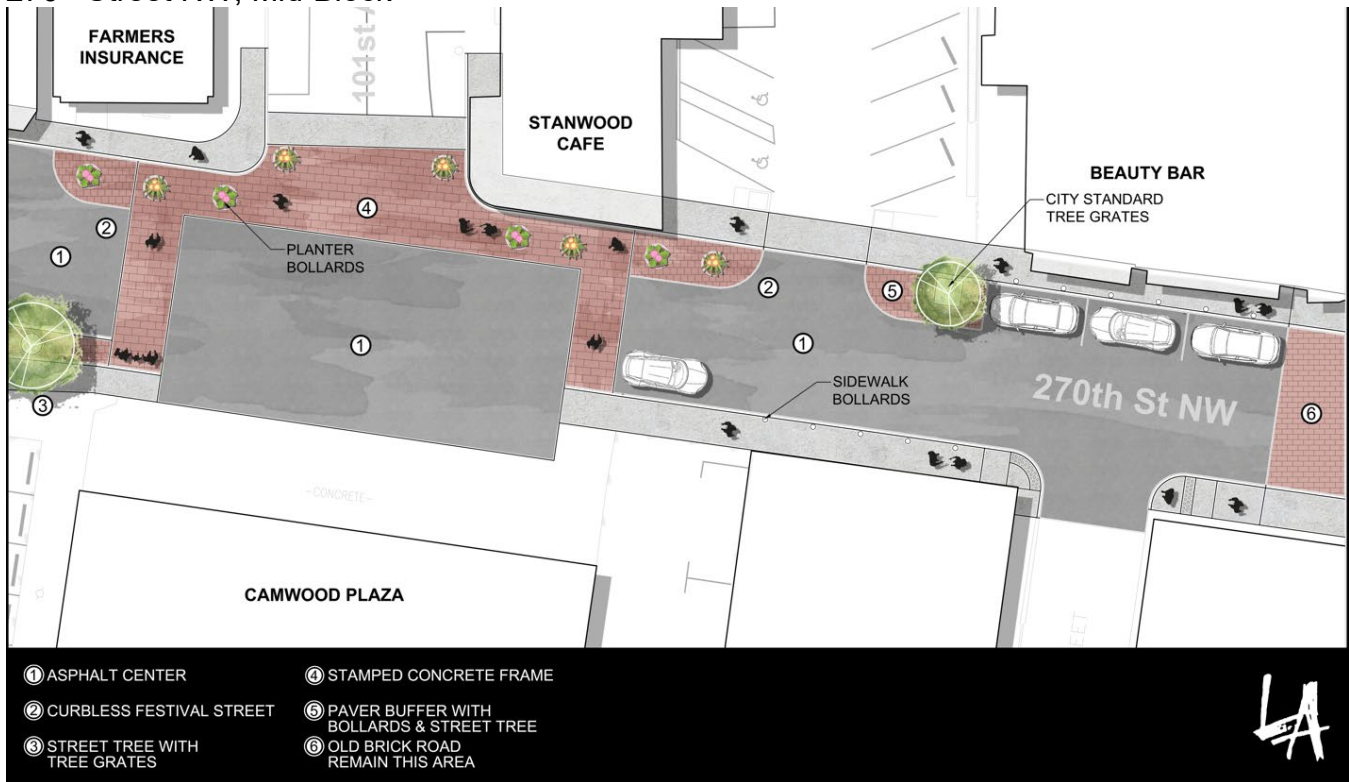
270th Street NW – Full Road Section



102nd Avenue NW Intersection



270th Street NW, Mid-Block

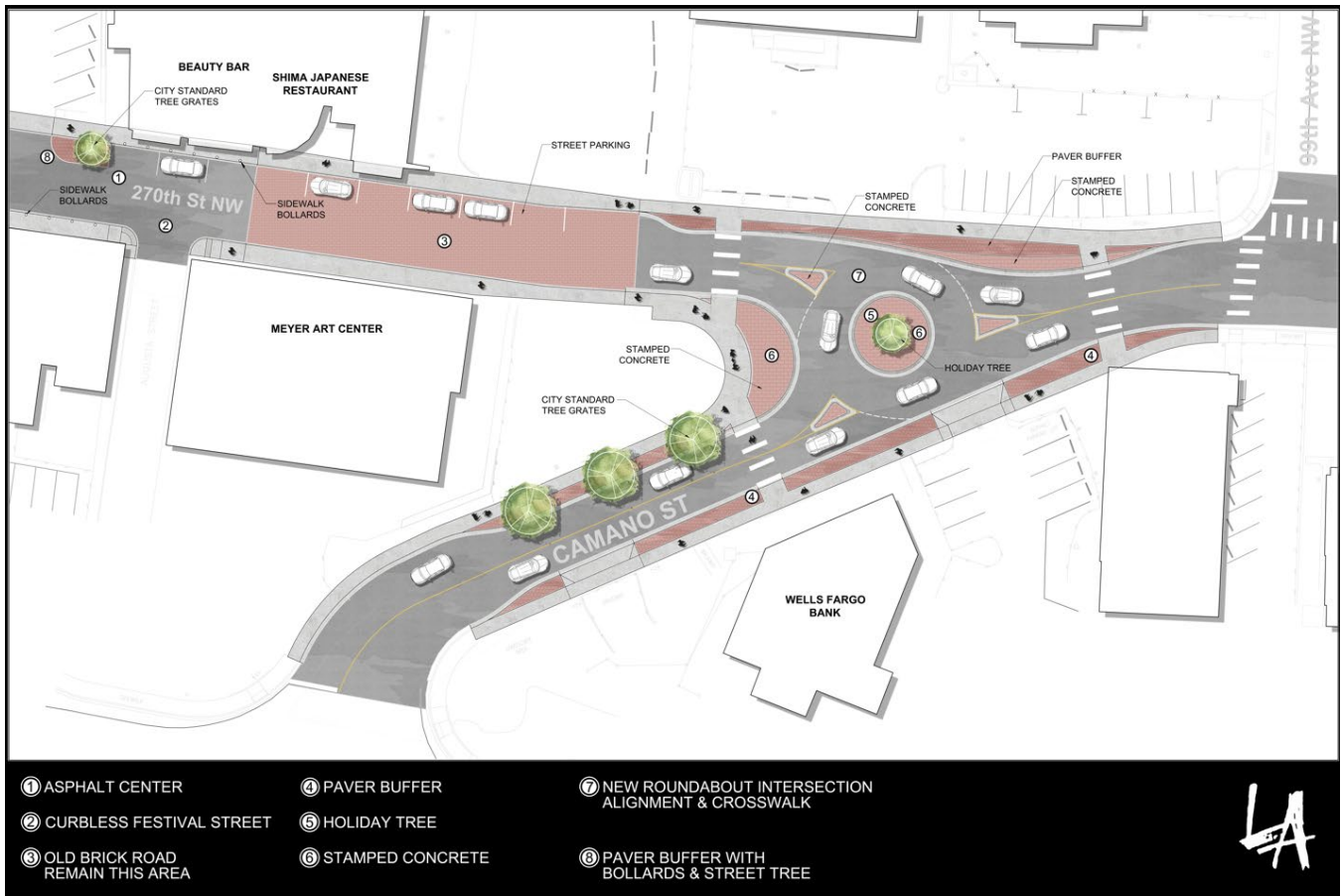


Camano Street Triangle – Option 1



Camano Street Triangle – Option 2 Mini Traffic Circle

As an option, a design is being prepared with a mini traffic circle at Camano Street and 270th Avenue.



While most mini traffic circles are used in residential areas, they can also be used in low-traffic intersections to improve traffic flow, reduce vehicle speeds, and are cost effective.

- The circular layout forces drivers to slow down while navigating the intersection, reducing the risk of collisions;
- Slower speeds provide more time for drivers to notice and yield to pedestrians;
- Unlike traffic signals or stop signs, mini circles allow for continuous movement, reducing delays;
- Mini traffic circles are generally less expensive to install and maintain compared to traffic lights or large roundabouts; and
- The mini traffic circle fits within the existing right-of-way and accommodates existing driveways.

Procedures Code Amendment

The next round of Municipal Code updates begins with amending the zoning code chapters. Title 17, Zoning, will now be moved to Title 18 and retitled as Unified Development Code (UDC). A UDC combines traditional zoning codes with subdivision, design standards, utility and engineering regulations into a single document to provide a comprehensive set of development standards and to avoid overlapping regulations.

The attached ordinance provides the outline for the new Title 18, which divides the Title into the following eight (8) logical groupings:

- Part 1: General Provisions
- Part 2: Applications
- Part 3: Permits
- Part 4: Land Divisions
- Part 5: Zoning and Uses
- Part 6: Specific Use Standards
- Part 7: Development & Design Standards
- Part 8: Environmental

UDC Project Goals:

As a reminder, the City Council adopted the following goals and action items to guide the adoption of Title 18 Unified Development Code Update. A checklist, so to speak, for the factors that will be used to evaluate whether the completed project is successful, on track, and consistent with the original objectives. These goals will be revisited over the life of the project and used to maintain focus over the coming months of revisions, drafts, review, and ultimately approval of the update code. The following is a summary of the seven goals and what they entail.

Unified Development Code Goals and Action Items

Project Goal	Action Summary
Goal 1: Comprehensively update and modernize the Zoning Code with respect to content and administration of the code.	▪ Making the Code user-friendly by simplifying language, and improving format, and organization. ▪ Making the Code consistent with current laws and best practices.
Goal 2: Improve the development review process for applicants and staff.	▪ Revising permit procedures to address changes in state law for housing permits, including updating submittal checklists to set clear expectations for the applicant.

Project Goal	Action Summary
	▪ Updating definitions to establish a clear common language, removing unneeded or confusing terms.
Goal 3: Promote development patterns consistent with the Comprehensive Plan and the 20-year growth projections.	▪ Combining similar zones and adding more flexibility in uses, where necessary and ▪ Ensuring consistency between zoning and comprehensive plan land use designations. ▪ Updating subdivision rules to be clearer, easier to use, and reflect best practices.
Goal 4: Evaluate and amend the Code to eliminate contradictions and remove barriers to development.	▪ Encouraging flexibility in design and use locations, such as by allowing variations in development standards and adopting standards for “live-work” units. ▪ Updating or add standards to address specific challenges or issues noted by staff.
Goal 5: Adopt design guidelines and site planning standards to achieve the desired community vision as described in the Comprehensive Plan.	▪ Updating design standards to foster active public realms and cohesive urban design, and compatibility with historic buildings, but maintaining flexibility in hardship situations. ▪ Streamlining development and design standards to encourage infill development.
Goal 6: Update Shoreline Management Plan (SMP) policies and regulations.	▪ Updating and moving Shoreline regulations out of the Critical Areas Code and into separate chapter.
Goal 7: Consider the best approach to integrate the 2023 state law requirements into the Municipal Code while ensuring consistency with the Comprehensive Plan.	▪ Using the Comprehensive Plan vision and goals to guide integrating of new state laws.

UDC Organization

This first UDC ordinance being processed includes both the organization structure of Title 18, UDC, as well as the application and permit chapters. Setting up Title 18 is necessary so that as amendments are processed and adopted, they can be dropped into the appropriate chapters. New Title 18 will include 8 parts as follows:

Title 18 Unified Development Code Organizational Structure

UDC Organization Structure	Content
Part 1 – General Provisions	General Provisions, Establishment of Zones, Adoption of Zoning Map, Definitions
Part 2 - Applications	Application Types and Permit Review Processes
Part 3 - Permits	Issued Permits, Conditional Uses, Variances
Part 4 – Land Divisions	Long and Short Subdivisions, Binding Site Plans, Boundary Line Adjustments
Part 5 – Zoning and Uses	Permitted Uses and Bulk Standards
Part 6 – Specific Uses Standards	Development Standards for Specified Uses
Part 7 – Development and Design Standards	Design Standards, Parking, Signage, Landscaping, stormwater, grading
Part 8 - Environment	Shoreline and Critical Areas (wetlands, streams, slopes, floodplains)

Staff anticipates that drafting Title 18 will take about 2 years to complete and during this time portions of Title 17, Zoning will remain in effect as there will be overlaps between Title 17 and 18 until the entire Title 18 is complete. It is anticipated there will be multiple code amendments to complete the full UDC, so portions of Title 17 will remain in effect while Title 18 is being developed and adopted. Once Title 18 is finished, Title 17 will be repealed in its entirety.

As such, staff and the public will be referencing both Title 17, Zoning and Title 18, UDC for development code issues. To help with this transition, the regulatory substance contained in the Title 17 chapters being amended will be deleted, and a note will be added referencing the reader to the appropriate chapter / section in Title 18. An example, of how this will look to the reader is shown below.

EXHIBIT B

AMENDMENTS TO SMC TITLE 17

- Exhibit B will include amendments to Title 17 that are necessary to accommodate the new procedures described in Exhibit A.

Chapter 17.80 Permit Review Procedures, is repealed and replaced with a chapter to read as follows:

Chapter 17.80 Permit Review Procedures

17.80.010 Replaced by Unified Development Code

For regulations governing the processing of permit applications and post-issuance requirements, see SMC Title 18 Part 2.

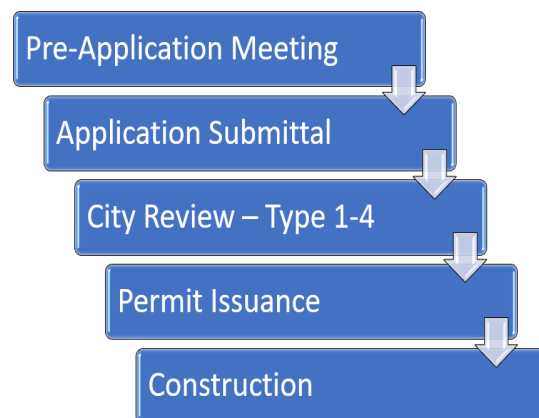
UDC Part 1 – General Provisions:

The General Provisions part establishes the foundation for the entire UDC. It adopts the City's zoning districts and map consistent with the Comprehensive Plan; rulemaking authority, administrative interpretations, violation references and definitions are also included in the General Provisions Chapter. Most of these sections are copied over from the existing Title 17, except that the zoning districts and map have been updated to be consistent with the 2024-2044 Comprehensive Plan.

Definitions will be migrated from Title 17 to Title 18 as chapters are adopted. Keep in mind that the existing definitions in SMC Chapter 17.20 will remain in effect until repealed and apply to both Title 17 and Title 18. Where definitions in SMC Title 17 conflict with SMC Title 18, the new definitions in SMC Title 18 control for regulations in SMC Title 18.

UDC Part 2 – Applications

The applications chapter of the UDC contains the permit types, permit submittal requirements and the permitting process. Permits are processed according to the city's procedures which are codified in the Municipal Code. The purpose of codifying the permit review procedures is to ensure consistency of review, reducing the chances of arbitrary decisions and open transparency of the city's processes. All permits follow a similar workflow, but the variation in time and process occurs in the City review step.



Permit types are categorized as Type 1-4 according to the level of review: administrative Hearing Examiner and City Council decisions. The following table and charts outline the city's permit types and their review process.

The only significant difference between this amendment and the existing Title 17 procedures code is that the old Type 5 permits have been deleted. Type 5 permits were those that were not subject to the "Regulatory Reform Act" of the State of Washington which establishes permit review timelines and procedures. These included street vacations, final plats and annexations; review process for these actions are established in other code sections or by state law.

Permit Application Category Types			
Type 1 Administrative Decisions without Notice	Type 2 Administrative Decisions With Public Notice	Type 3 Decisions After Public Hearing by Hearing Examiner	Type 4 City Council Decisions
- Single Family (Bldg, Mech, Plumb) - Fire - Multi-Family ≤ 40 Units - Com/Ind ≤ 12K SF - Mixed-Use ≤ 20 Units - ADU - Zoning Code Interpretation - BLA - Code Enforcement - Concurrency Eval - Encroachment (ROW) - Floodplain - Grading - Home Occupation - Manufactured Home Infill - Parcel Combination - ROW - Sign - TN – Public Facilities - Small Cell WCF - Co-Located WCF - Minor Modification to WCF	- Multi-Family > 40 Units - Com/Ind > 12K SF - Mixed-Use > 20 Units - Admin Variance - Binding Site Plans - Reasonable Use Permit - Right to Farm - SEPA Determinations - Shoreline Substantial Development Permit - Short Plats - Waiver of 6-Year Forest Practice Moratorium	- Appeal – Code Enforcement - Appeal – Building Code - Appeal - Administrative - Conditional Use Permit - Preliminary Plat; Including PRD's, Cottage , & Offspring Subdivision - Essential Public Facilities - Non-Admin Variance - Shoreline CUP - Shoreline Variance - TN-Residential Subdivisions - TN – Mixed Use - Forest Practice Waiver – Nonresidential - WCF – Mono Pole - WCF – Deviation	- Development Agreements - Site Specific Rezones

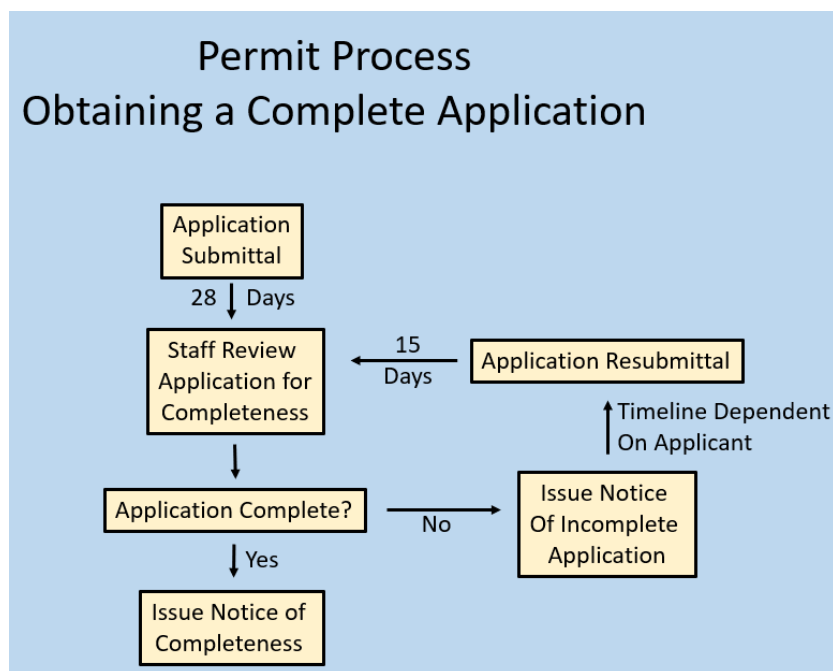
Part 2 also outlines the permit process for each permit type. Permit types are listed on a graduated scale by review authority:

- Type 1: Administrative decision by staff with no public comment
- Type 2: Administrative decision by staff with public notice
- Type 3: Administrative review with decision by the Hearing Examiner after holding a public hearing.
- Type 4: Administrative review, Hearing Examiner public hearing and recommendation to the City Council and final decision by the City Council after holding a public hearing.

Prior to review of an application, it needs to be determined if an application contains all of the information needed for review – this process is commonly referred to as a "completeness review".

Each permit type is reviewed against the submittal checklist. If all of the required information is submitted, a complete application notice can be issued. Staff is proposing to simplify the submittal checklist to reflect only the permit category and not each individual permit type. Options for the submittal checklist are shown below: Option A-C.

Submittal Category	Typical Submittal Requirements
General Application Materials:	Forms, Fees, Project Narratives, Vicinity Maps
Site Plans:	Plat Maps; Site, Landscape, Tree Retention Plans; Building Elevations
Civil Engineering Plans:	Drainage, Traffic, Clearing, Grading, Road / Right-of-Way, Erosion Control, and Utility Plans
Environmental Documents:	SEPA Checklist, Critical Area Reports (Wetlands and Streams), Floodplain, Geotechnical, and Cultural Resource Reports
Other:	Public Notice Lists, Safe Walking to School Plans, Covenants, Title Certificates, Lot Closure Reports
Before Final Plat or Occupancy:	Deeds, Easements, Bonds, Asbuilts



Option A: Current Procedure
Doesn't match will all permit applications listed in chart.

Permit Procedures Code Amendment

Option A: Current Submittal Chart

Permit Type Across the Top

Permit Submittal
Requirements in the Left
Column

Submittals: Required / May
be Required within Matrix

Extremely Large Matrix to
Address All Permit
Application Types

Note: Graphic Shows Only
the First Page for Illustrative
Purposes

Table 2 – Permit Submittals for Type I-V Permit Applications

Type I Permit – Submittal Requirements Administrative Decisions without Public Notice										
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Type I Permit – Submittal Requirements Administrative Decisions without Public Notice										

Option C: Hybrid of A and B – Preferred Option of Planning Commission and Advisory Group
Sorts permit application by complexity with appropriate level of submittal materials.

Planning Commission and Advisory Group Preferred Option

Table 2 – Permit Submittals for Type 1.4 Permit Applications

Permit Procedures Code Amendment

Option C: Hybrid of Current Submittal Chart and Simplified Chart

Permits Sorted into
Categories by Level of Effort
Across Top: Simple to More
Complex

Permit Submittal
Requirements in the Left
Column

Submittals: Required /
May be Required within
Matrix

Note: Graphic Shows Only
the First Page for Illustrative
Purposes

Table 1 - Permit Checklist for Type 1 Permit Applications

Type 1 Permit – Submittal Requirements

Administrative Decisions without Public Notice

Category 1 Permits: Zoning Interpretation, Code Enforcement, Home Occupation

Category 2 Permits: Single Family Building Permits (Bldg, Mech, Plumb), Fire, Accessory Dwelling Units, Floodplain, Final Plat, Manufactured Home Infill, Sign

Category 3 Permits: Multifamily ≤ 39 Units, Commercial / Industrial ≤ 12 K SF, Mixed Use ≤ 19 Units, TN Public Facilities

Category 4 Permits: Wireless Communication Facilities (Small Cell, Co-Located, Minor Modifications)

Category 5 Permits: Parcel Combination, Boundary (Lot) Line Adjustment

Category 6 Permits: Concurrence Evaluation, Encroachment (ROW), Right-of-Way, Grading

Permits Sorted Into Categories
by Similarity in Level of Review

> A "●" represents a required submittal item.

> A "□" indicates the item shall, upon request, be required for submittal

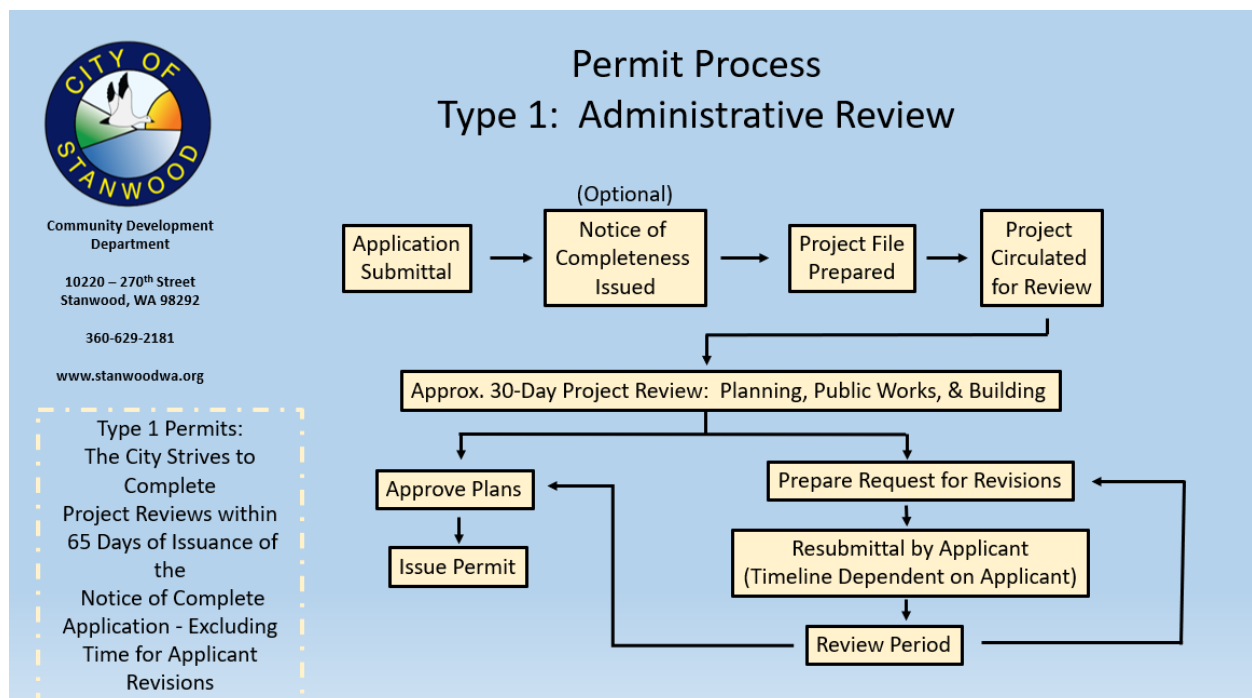
Submittal Requirements	Complete Submittal Item?			Category 1 Permits / Actions	Category 2 Permits	Category 3 Permits	Category 4 Permits	Category 5 Permits	Category 6 Permits
	Yes	No	N/A						
General Application									
Land Use Application Form	☐	☐	☐						
Project Narrative	☐	☐	☐						
Review Fee ¹	☐	☐	☐						
Legal Description	☐	☐	☐						
Vicinity Map or Aerial Photograph	☐	☐	☐						
Water/Sewer Availability Approval ²	☐	☐	☐						
Site Plans									
Site Plan ³	☐	☐	☐						
Landscape Plan ³	☐	☐	☐						
Tree Retention Plan ³	☐	☐	☐						
Plat Map ⁴	☐	☐	☐						
Reduced Plan Set (11x17)	☐	☐	☐						
Building Elevations (11x17)	☐	☐	☐						
Civil / Engineering									
Drainage Report	☐	☐	☐						
Traffic Impact Study	☐	☐	☐						
Grading and Clearing Plan ⁵	☐	☐	☐						
Road and Drainage Plans ⁶	☐	☐	☐						
TESCP (Erosion Control Plan)	☐	☐	☐						

Permit Applications by Category

Permits Sorted Into Categories
by Similarity in Level of Review

Permit Applications by Category

Once a project receives a complete application, the permit review process begins. The diagrams below show the review process for each permit type.





Community Development
Department

10220 – 270th Street
Stanwood, WA 98292

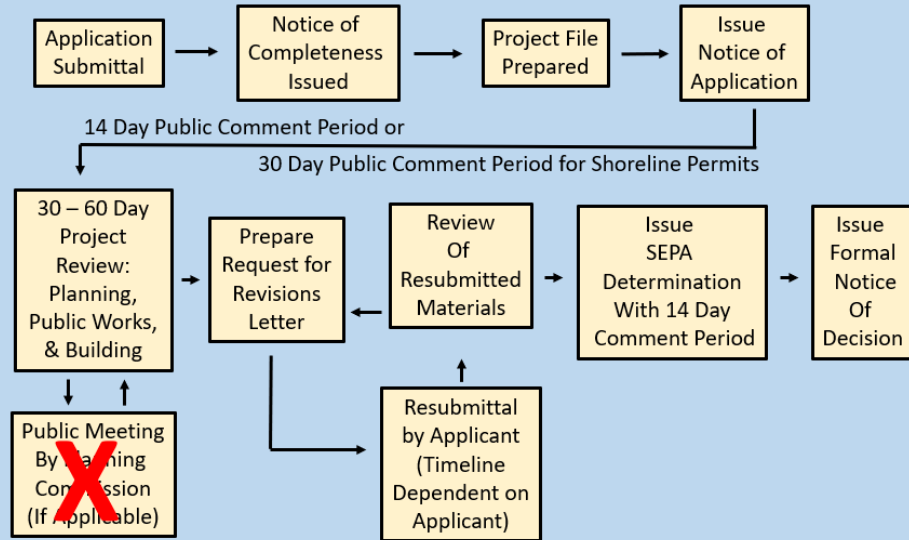
360-629-2181

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Type 2 Permits:
100 Day
Review Period from
Notice of Complete
Application -
Excluding
Time for
Applicant
Revisions

Permit Process

Type 2: Administrative Review With Public Comments



Note the draft amendment eliminates the “public meetings” with PC in favor of only having “public hearings” before Hearing Examiner, consistent with State law limiting the number of allowed hearings on a project.



Community Development
Department

10220 – 270th Street
Stanwood, WA 98292

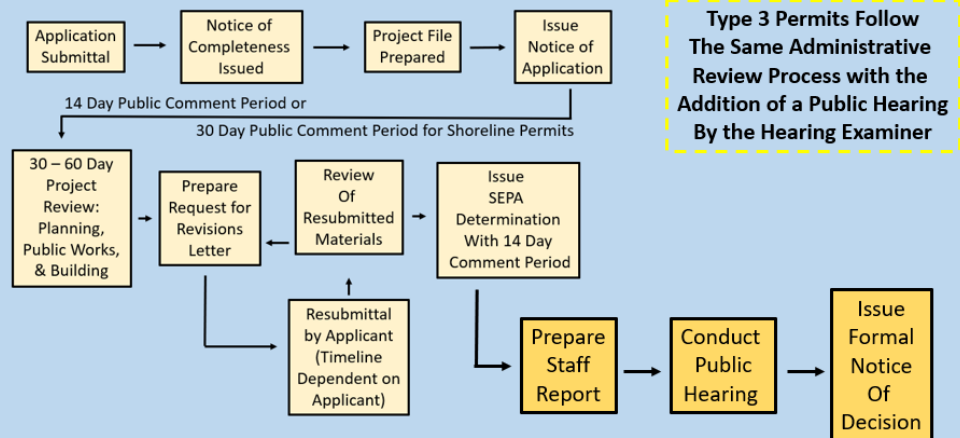
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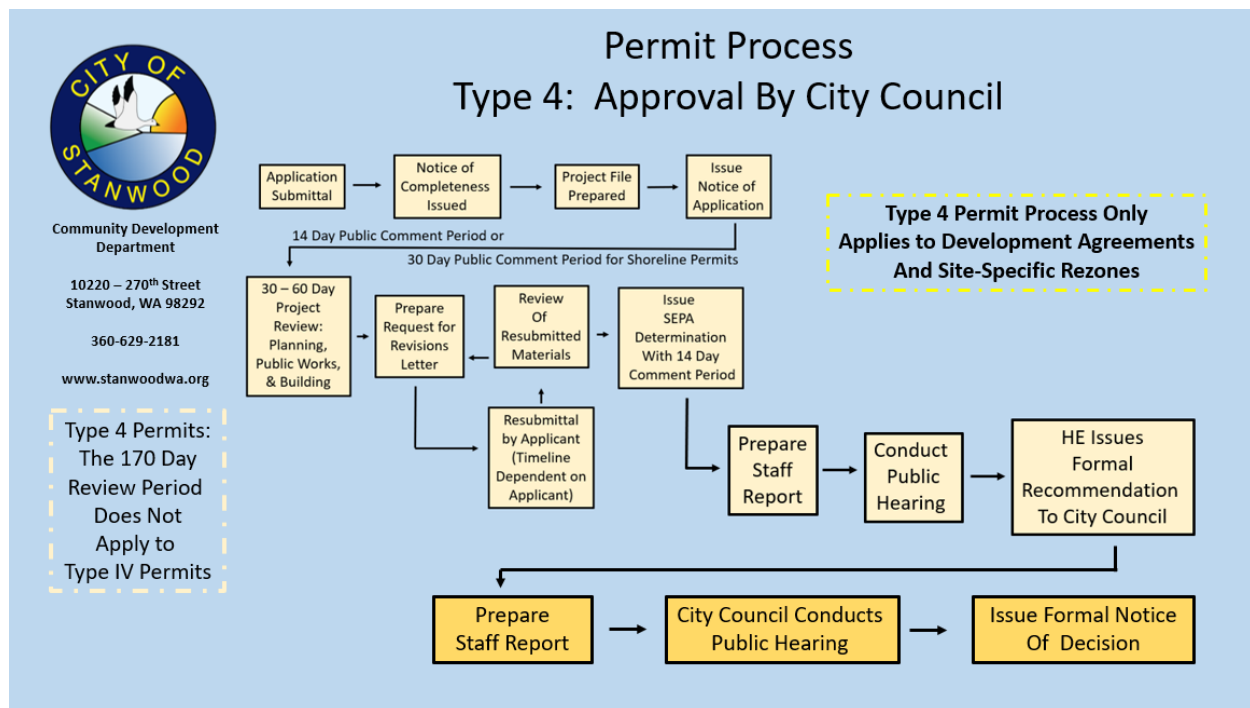
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Type 3 Permits:
170 Day
Review Period from
Notice of Complete
Application -
Excluding
Time for
Applicant
Revisions

Permit Process

Type 3: Public Hearing Required with Hearing Examiner





In addition to changing the code into “plain talk”, amendments include:

- Procedures are reorganized to fit the new table of contents for the new Title 18;
- Consolidates various tables into a single table in proposed 18.230.020, Types of Review;
- Adds permit review time periods consistent with the defaults in 2SSB 5290:
 - Type 1 Permits: 65 days
 - Type 2 Permits: 100 days
 - Type 3 Permits: 170 days
 - Type 4 Permits: 170 days
- Final plat approval, as a ministerial action, is moved to Type 1 per recent amendment of RCW 58.17.100.
- Street vacations and annexations are not project permits, are not subject to the other requirements of the chapter and statute, so are not included.
- Creates an optional meeting procedure in proposed 18.230.080(3) to implement RCW 36.70B.160(1)(j), which is one of the options to avoid permit fee refunds.

UDC Part 3 – Permits

Part 3, Permits, covers the post permit application process and details the review criteria for variances and conditional use permits.

Chapter 18.310 Permits Generally

This code section covers the post permitting processes and requirements. There are no significant changes from existing Chapter 17.80 Article IV with the exception of using plain language text and reorganization.

- Permit Terms, Extensions, and Expiration

- Permit Revisions
- Requirements for Civil Construction Plans
- Inspections
- Effect of Decisions
- Certificate of Occupancy
- Vacation of Permits

Chapter 18.320 Conditional Use Permits

A Conditional Use Permit (CUP) is a zoning tool to allow a property to be used in a way that is not typically permitted under the current zoning regulations but might be appropriate under certain situations or conditions. Conditional Use Permits provide:

- Flexibility in Land Use: CUPs provide flexibility within zoning laws by allowing certain uses that could be beneficial or compatible with the surrounding area if specific conditions are met.
- Community Input: The city's CUP process requires a public hearing, giving the community an opportunity to voice their concerns or comment on potential mitigation strategies.
- Case-by-Case Review: Each CUP application is reviewed individually, allowing for a thorough examination of the specific circumstances, including the proposed use, location, and potential effects on the surrounding area.

To obtain a conditional use permit, the applicant must show how their application meets the compatibility criteria: Zoning Compatibility, Community Need, and Effect on Adjacent Properties. It is being suggested that the "Community Need" criteria should be eliminated as it has not been supported by recent court cases and could put the City at risk. Staff suggests revising the "Community Need" criteria for CUP's with "Community Compatibility" as shown below:

Existing City Code Criteria	Proposed Amendment
Community Need. There must be a community need for the proposed use at the proposed location. In the determination of community need the reviewing official must consider the following factors, among all other relevant information: (a) The proposed location must not result in either the detrimental overconcentration of a particular use within the city or within the immediate area of the proposed use; (b) That the proposed location is suited for the proposed use.	Community Compatibility: The use will not have a substantively greater adverse effect on the health, safety or comfort of persons living or working in the area than those generally permitted in the district. In the determination of community compatibility, the reviewing official must consider the following factors: Hours and manner of operation, such as dust, odor, fumes and vibration do not impact adjacent properties; Existing infrastructure, such as roads, utilities, and parks, can accommodate the proposed use without degrading the adopted level of service standards; and The proposal's impacts can be appropriately mitigated through the application of conditions of approval, as applicable.

Chapter 18.330 Variances

A variance is a form of regulatory relief granted that allows a property owner to deviate from the strict requirements of the zoning code. A variance typically allows a property owner to use their land in a way that is generally allowed, but in a manner that does not fully comply with the zoning regulations due to unique circumstances.

The primary purpose of a variance is to provide flexibility in situations where the strict application of zoning laws would cause undue hardship due to the unique physical characteristics of the property. For example, if a property has an irregular shape, steep topography, or other unusual features that make it difficult or impossible to comply with the standard zoning requirements, a variance might be granted to accommodate these challenges.

Stanwood has two types of variances: administrative and through the public hearing process with the Hearing Examiner. This amendment is proposing to change the terms for these variances as follows:

Existing Term	Proposed Term
Administrative Variance	Minor Variance
Non-Administrative Variance	Major Variance

Planning Commission Review Comments:

The Planning Commission reviewed the proposed amendments on September 9, 2024. They had the following four major comments:

- Update the submittal checklist to group like type permits with the same submittal requirements; the intent is to simplify the matrix while still showing all of the permit applications;
- Expand on the explanation on when the optional submittal requirements are needed;
- Provide better clarity of the district definitions; it is confusing with regard to school and the new public facilities zones; and
- Clarify the process and penalties for permit violations.

The Planning Commission will begin the public hearing process on the proposed amendment on their October 14 meeting. The Advisory Committee comments will be forwarded to the Commission and included in the public record for the hearing. They have the option to recommend the ordinance to the Council or continue the public hearing.

Advisory Group Review Comments:

The Advisory Group reviewed the proposed amendments on September 18, 2024. They had the following comments:

- They agree with the Planning Commission and support the hybrid approach to the submittal checklist: grouping like type permits with the same submittal requirements with the intent to simplify the matrix while still showing all of the permit applications;
- Like the changes to the CUP criteria as they are more specific to an impact analysis and reduces the chances of arbitrary decisions;
- Support appeals going to the Hearing Examiner; and
- Consider making all affordable housing projects, whether a subdivision or multifamily project, a Type 1 permit to reduce costs and review time; also consider adopting reduced fees for affordable or low-income projects.

Bakerview Final Plat

Bakerview Stanwood, LLC (Bakerview) submitted a preliminary plat application for 114-lot Traditional Neighborhood subdivision in February 2022. The project was reviewed per the City's permitting process and was approved after a public hearing with the Hearing Examiner in July 2022. In November 2023, Bakerview applied for a Minor Administrative Modification to increase the number of lots from 114 to 119. As this was less than a 10% increase, the proposed modification was approved administratively.

Bakerview is working with DR Horton to develop the lots and submitted a phasing plan for the subdivision consisting of two phases. The construction of phase 1 of the plat is almost complete. Bakerview has submitted for Final Plat of Phase I. Plat improvements include streets, sidewalks, stormwater improvements, water improvements, sewer improvements and open space. Bakerview will be providing maintenance bonds for all installed public improvements. The final plat will be forwarded to the City Council once construction is complete.

Once a preliminary plat has been approved no additional conditions or requirements can be added to the project. At the final plat approval stage, the process is essentially administrative: the city verifies all conditions of preliminary plat have been met and site improvements are installed per plan approval. If the City finds that the plat conforms to the preliminary approval, the City must approve the final plat. Final plat approval is not discretionary, cities have no option but to approve a final plat if all the conditions of preliminary plat approval have been met.

Bakerview Phasing Plan

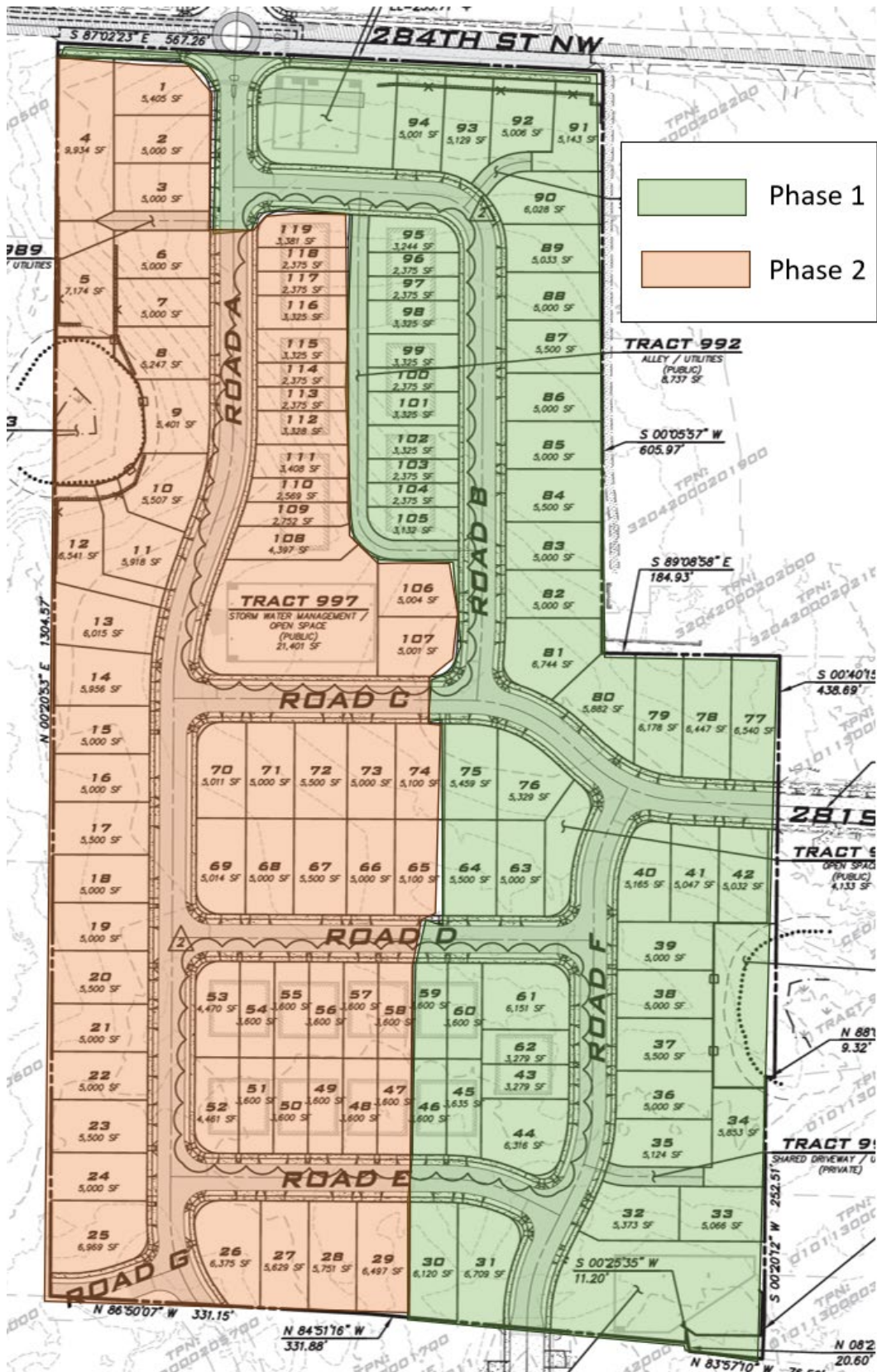


Exhibit A Ordinance
Stanwood Municipal Code Title 18 Part 2
Unified Development Code

**CITY OF STANWOOD
WASHINGTON**

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, ADOPTING A
NEW SMC TITLE 18, UNIFIED DEVELOPMENT CODE, IN THE STANWOOD
MUNICIPAL CODE (SMC), ESTABLISHING SEVERABILITY, AND AN EFFECTIVE
DATE.**

WHEREAS, the City of Stanwood has begun a process to comprehensively update its municipal code to conform to current law and practice; and

WHEREAS, the purpose of this code amendment is to eliminate conflicts, improve clarity and overall function of the municipal code, and reflect current city and best practices; and

WHEREAS, the City Council has opted to comprehensively revise and consolidate zoning, subdivision and development regulations in a new Unified Development Code in Title 18; and

WHEREAS, the amendments in this ordinance adopt the general provisions and permit procedures provisions for the new Unified Development Code; and

WHEREAS, the amendments were reviewed for consistency with the permitting requirements of RCW 36.70B Local Project Review; and

WHEREAS, the amendments integrate permit review timing and process changes mandated by 2SSB 5290 (2023) into the city's application procedures; and

WHEREAS, as required by RCW 36.70A.106, the City submitted the proposed Unified Development Code amendment for the 60-day review to the Washington State Department of Commerce on _____, and'

WHEREAS, the Department of Commerce's 60-day review period was completed on _____, 2024; and

WHEREAS, the City issued a SEPA threshold determination of non-significance for the Comprehensive Plan and associated zoning changes on _____, 2024, and the comment / appeal period ended on _____, 2024; and

WHEREAS, the Stanwood Advisory Group reviewed the draft ordinance at their ____ meeting, and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the Stanwood Community Development Committee reviewed the draft ordinance at their ____ meeting, and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the Stanwood Planning Commission held a public hearing on the draft ordinance at their ____ meeting and has recommended that the City Council adopt the ordinance; and

WHEREAS, the City Council held a public meeting and first reading of the draft code amendment on ____, a second reading on ____, and accepted public comment; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Stanwood Municipal Code Title 18, Unified Developed Code, is adopted as provided in Exhibit “A” attached to this ordinance and incorporated herein by reference as if set forth in full.

Section 2. Stanwood Municipal Code Title 17 is amended as shown in Exhibit B.

Section 3. Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 4. Authority to Make Necessary Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

Section 5. Effective Date. This Ordinance shall take effect five days after its passage and publication as required by law.

PASSED and APPROVED this ____ day of _____, 2024.

CITY OF STANWOOD:

Sid Roberts, Mayor

Attest:

Lisa Sokolik, City Clerk

Approved as to Form:

Nikki Thompson, City Attorney

Date of Publication: _____

Effective Date: _____

EXHIBIT A

Title 18 Unified Development Code 4

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Title 18 Unified Development Code

i The new Unified Development Code is proposed for division into multiple parts, each including logical grouping of chapters. This ordinance would adopt the outline for the entire title, but only adopt content for selected chapters.

Part 1 General Provisions

i These chapters reflect the general provisions chapters of the zoning code, chapters 17.05-17.25.

! The final version of this exhibit may also include some additional provisions, in addition to Part 2, as may be necessary to support the new Unified Development Code while it is in development.

Chapter 18.100 General Provisions.

18.100.010 Purpose

i This section is based on existing SMC 17.05.010 Purpose.

The purpose of this code is to establish standards, procedures, and minimum requirements to achieve the following general intentions and purposes for the city of Stanwood:

- (1) To establish regulatory procedures and standards for review and approval of all proposed development in the city;
- (2) To foster and preserve public health, safety, comfort, and welfare, and to aid in the **harmonious**, orderly, aesthetically pleasing, and socially beneficial development of the city, in accordance with the Comprehensive Plan;
- (3) To adopt a development review process that is:
 - (a) Efficient, in terms of time and expense,
 - (b) Effective, in terms of addressing the natural, historic, and aesthetic resources and public facility implications of any proposed development, while also protecting and improving the quality of life in the city, and
 - (c) Equitable, in terms of consistency with established regulations and procedures, respect for the rights of all property owners, and consideration of the interests of the citizens and residents of the city;
- (4) To implement the Comprehensive Plan of the city by:
 - (a) Establishing regulations and conditions governing the erection and use of future buildings, structures and land as specified in the Comprehensive Plan;
 - (b) Securing safety from fire, panic, and other dangers;
 - (c) Lessening automobile congestion of the streets;
 - (d) Providing for adequate light and air;
 - (e) Preventing the overcrowding of land;

- (f) Planning for population growth and facilitating the adequate provision of transportation, potable water, wastewater disposal, schools, parks, and other public requirements of the city;
 - (g) Establishing zoning districts, defining certain terms, designating the uses and intensities thereof that are permitted in the different districts, and providing lot size and other dimensional and density requirements;
 - (h) Establishing performance standards that apply to all new development as well as the redevelopment of all lands in the city.
- (5) To regulate the subdivision of land to ensure that adequate public facilities are provided in developing portions of the city; to promote coordinated land development; and to require uniform monumenting of land subdivisions and conveyance by accurate legal description;
 - (6) To ensure that all development in the city will be served by adequate public facilities;
 - (7) To require that all new land development activity contribute its proportionate share of the funds, land, and public facilities necessary to accommodate the impacts that such new development has on public facilities and services;

i Next line edited from “rational nexus” to “nexus and proportionality.”

- (8) To ensure nexus and proportionality exists between the proposed development and project conditions for which the need is reasonably attributable to the proposed development;
- (9) To provide for enforcement of this code;
- (10) To minimize and avoid public nuisances by preventing incompatible uses from locating adjacent or within close proximity to one another, and by conditioning certain uses in particular circumstances, thereby restricting those aspects of the uses that may be incompatible.

! I generally prefer the term “zone” over “zoning district,” for brevity. We should add one or the other to the style guide, based on city preference.

18.100.020 Establishing of Zoning Districts

The city of Stanwood is hereby divided into the following zoning districts:

- (1) SR (single-family residential) 12.4 zoning district;
- (2) SR (single-family residential) 9.6 zoning district;
- (3) SR (single-family residential) 7.0 zoning district;
- (4) SR (single-family residential) 5.0 zoning district;
- (5) MR (multiple-family residential) zoning district;
- (6) TN (traditional neighborhood) zoning district;
- (7) NB (neighborhood business) zoning district;
- (8) DMU (downtown mixed-use) zoning district;
- (9) GC (general commercial) zoning district;
- (10) PI (planned industrial) zoning district;
- (11) GI (general industrial) zoning district;
- (12) POS (parks and open space) zoning district;

(13) PF (public facilities) zoning district.

18.100.030 Purpose and Intent of Zoning Districts

 Are these zone definitions in the Comprehensive Plan? If so, I recommend making reference to them rather than repeating them here. If your zoning map is distinct from your comprehensive plan map, that's probably not possible, but we should clearly indicate which descriptions are required by the Comp Plan.

- (1) Single Family Residential 12.4 Zone. This designation shall provide for primarily for single-family residential and accessory dwelling units at a density of 3.5 units per acre.
- (2) Single Family Residential 9.6 Zone. This zoning district is intended to provide opportunities for moderate density residential development with larger lot sizes, and provide standards that encourage reasonable integration of new and existing residential areas, active and passive recreational facilities and activities that support these residential communities. The zone also supports public/quasi-public facilities such as secondary schools, community centers and parks that draw from and support the regional community. This zone implements the residential medium density land use designation in the Comprehensive Plan. This designation shall provide for primarily for single-family residential, townhouses, duplexes, triplexes and accessory dwelling units at a density of 4.5 units per acre.
- (3) Single Family Residential 7.0 Zone. This zoning district is intended to accommodate medium density residential development as infill on smaller lots than in moderate density designations but platted at a standard that is consistent with the density of the existing residential area, and to provide standards and uses to encourage reinvestment in and maintenance of existing properties, and provide supportive active and passive recreational facilities. The zone also allows public/quasi-public uses such as elementary schools, community centers, parks and community-based recreation facilities that support those uses and serve more than one residential area. This zone implements the residential medium density land use designation in the Comprehensive Plan and provides for primarily for single-family residential, townhouses, duplexes, triplexes, quadplexes and accessory dwelling units at a density of 6-7 units per acre.
- (4) Single Family Residential 5.0 Zone. This zoning district is intended to provide standards to maintain the smaller lot plat pattern of the pre-1940 subdivisions that predominate the areas in this designation; promote infill, redevelopment and maintenance of property consistent with the historic smaller lot pattern and older housing stock; provide infill housing at higher density on larger parcels, encourage active and passive recreational facilities such as community centers, parks and community-based recreation that support the neighborhood; and allow for public and quasi-public uses that are part of these areas due to this historic settlement pattern, such as elementary schools that may serve more than one neighborhood. This zone implements the residential medium density land use designation in the Comprehensive Plan and provides for primarily for single-family residential, townhouses, duplexes, triplexes, quadplexes and accessory dwelling units at a density of 9-10 units per acre.
- (5) MR (Multi-Family Residential) Zone. This designation shall provide for small lot single family and multi-family residential development at a range of densities between 10 and 20 dwelling units per acre. Small amounts of commercial uses such as schools, churches, daycare centers, live-work units, or small office where a full range of public facilities and services to support urban development exists should be allowed. Generally, this designation is appropriate for land which is located convenient to principal arterials and to business and commercial activity centers.
- (6) NB (Neighborhood Business) zone. This designation shall comprise retail and service businesses which serve the limited convenience shopping and personal service needs of the immediate surrounding neighborhood.
- (7) TN (Traditional Neighborhood) Zone. The purpose of the Traditional Neighborhood land use designation is to provide an alternative to typical residential developments. Developments in the Traditional Neighborhood designation are intended to develop in a higher density, mixed-use fashion more typical of older

neighborhoods. It features requirements for common open space, through streets and a mix of housing types. This designation shall provide for residential development at densities of 10-20 dwelling units per acre. An allowance for commercial development shall also be allowed.

- (8) DMU (Downtown Mixed-Use) Zone. The intent of the Downtown Mixed-Use land use designation is to create a dense, mixed use, pedestrian-friendly shopping environment reminiscent in design and uses to a turn-of-the-century downtown. This designation generally applies to downtown Stanwood. The purpose of the Downtown Mixed-Use zoning is to permit a complementary mix of residential and commercial uses in a single district creating a walkable community. This district allows a combination vertical mixed-use and horizontal mixed-use, thus creating an area containing mixed-use buildings as well as distinct single-use buildings in close proximity to each other. Mixed-use buildings, with residential above or behind commercial/retail space, shall be allowed along the City's primary streets in downtown (270th Street, 271st Street, 92nd Avenue, and 88th Avenue). Whereas standalone residential buildings may be permitted on the secondary streets with no direct access to the primary streets. Developments should be designed so that shoppers are less dependent on the automobile. In general, zero lot line development shall be maintained with store fronts and common walls. Parking shall be located on the street or to the rear of buildings. On-street parking will be on both sides of the street, and diagonal in the east end. Public parking areas may be necessary to assist people in leaving their cars and traveling on foot. Within the historic downtown commercial areas, the City will allow flexible interpretations of standards to encourage re-investment in, re-use and maintenance of structures that display historic period architectural character and scale. The architectural styles representative of commercial and residential buildings that existed from 1890 through the 1920s should be maintained.
- (9) GC (General Commercial) Zone. This designation comprises more intensive retail and service uses than described in the Downtown Mixed-Use zone. General commercial uses typically require outdoor display and/or storage of merchandise that tend to generate noise as part of the operation. Such uses include, but are not limited to grocery stores, pet stores, drug stores, medical clinics, recreational facilities vehicle sale lots, tire and muffler shops, and equipment rental. Many of the businesses allowed in the DMU district are also allowed in this district. This designation is also meant to include the development of high-density multi-family housing including both: 1) vertical mixed use with commercial / retail space on the bottom floor and residential above; or 2) horizontal mixed-use buildings where commercial building(s) face the street frontage and standalone multifamily buildings are located behind and setback from the commercial / retail buildings.
- (10) PI (Planned Industrial) Zone. The intent of the Planned Industrial land use designation is to create a district that permits activities involved in the manufacture, repair, or service of goods, or products that are conducted with minimal adverse impact on the environment and the general community, as well as retail and office uses. The PI zone is intended to accommodate a variety of commercial and industrial uses that complement typical light industrial complexes. Industrial, commercial, commercial or retail business uses desiring to locate in the PI zone must meet the architectural and performance standards for this district. The PI uses shall not adversely affect the health and safety of adjacent non-industrial and residential neighborhoods.
- (11) GI (General Industrial) Zone. This designation comprises more intensive industrial type uses than those permitted in the Planned Industrial zone. Uses in the GI zone require equipment, devices or technology for the control of odors, dust, fumes, smoke, noise, or other wastes and/or by-products from affecting adjacent properties. The GI uses shall not adversely affect the health and safety of adjacent non-industrial and residential neighborhoods. Examples of General Industrial uses include large indoor manufacturing facilities, automotive repair, construction yards or material storage and the water and wastewater treatment plant.
- (12) POS (Parks and Open Space) Zone. The parks and open space zoning designation is applied to lands which are to be maintained as park space or natural open spaces in perpetuity by the city. Many of these lands have underlying contractual agreements with either the Washington State Recreation and Conservation

Office, conservation futures easements, or critical area easements. The POS designation should be applied to public park properties identified in the city's parks, recreation and open space plan.

- (13) PF (Public Facilities) Zone. This designation is applied to lands that are used as public lands and facilities, including utilities, schools, railroad, and the wastewater treatment plant.

18.100.040 Establishment and Interpretation of Zoning Maps

i This section is based on existing SMC Chapter 17.15. Retitled to add "interpretation."

- (1) The boundaries and identification of the zoning districts established by this code are shown on the zoning map which is filed in the office of the city clerk (with copies in the planning department). Said map is hereby declared to be part of this code as fully as if set out herein.
- (2) No building or land may be used and no building may be erected or altered except in conformity with the regulations herein prescribed for the district designated and identified on the zoning map in which such building, land, or water is located.

! Are the following subsections still valid? Do you use a paper or electronic map?

- (3) Zoning district boundaries are shown as heavy solid lines on the zoning map and may be superimposed on lighter lines designating platted lot lines, streets, and other physically identifiable ground features, unless specific distances in feet or angles, bearings, radii, or other references to a boundary line located are specified.
- (4) Zoning district boundary lines, when located in streets or other public rights-of-way, must be interpreted as being located in the centerline of such rights-of-way. When distances expressed as linear footage are shown between a zoning district and a street, the distance must be interpreted as being between said boundary line and the centerline of said street, unless otherwise specified.
- (5) Boundary lines between zoning districts which are interrupted on the zoning map to show street names or other identification numbers must be interpreted as extending through such identification, unless otherwise specified.
- (6) When the exact location of a zoning district boundary line is not clear, it must be determined by the Director, with due consideration given to the location as indicated by the scale of the zoning map. When, for any reason, the streets or alleys as they actually exist on the ground differ from the depiction of said streets and alleys as they are shown on the zoning map, the planning director may apply the district designations on the map to the streets on the ground in such manner as to conform to the intent and purpose of this code.
- (7) Where a zoning district boundary line shown on the zoning map divides a lot of record, the property owner has the option of choosing either of the two districts to apply to the entire lot area, or may subdivide the lot to retain both districts as mapped so long as all of the standards and requirements of the relevant performance standards can be met.

18.100.050 Rulemaking Authority

i This section is based on existing SMC 17.80.150 Rule making authority. The objective is to provide rulemaking authority for the entire UDC.

- (1) Consistent with the intent of the Comprehensive Plan and this title, the Director may issue written rules as the Director deems necessary to carry out the provisions of this title. Such rules may include but are not limited to the following:

- (a) Information to be required in the application, including, without limitation, proof of legal interest in the property, authority to sign the application, drawings, maps, data, and charts concerning land and uses and areas in the vicinity of the proposed development, and appropriate supplementary data reasonably required to describe and evaluate the proposed development and to determine whether the proposed development complies with statutory criteria under which it might be approved; and
 - (b) Requirements for the conduct and continuance of public hearings and the methods of providing public notice on projects and permits.
- (2) The Director may administratively determine the format and contents of permits, application forms, application checklists, additional information needs, and notices above and beyond the minimums set forth in this code.

18.100.060 Administrative Interpretations

-  This section is based on existing SMC 17.80.160 Administrative interpretations, broadened to describe entire UDC (rather than previously the "zoning code").
-  Deleted section about appeals, etc., because that is handled by procedures chapters.

 Note the term of art used is "administrative interpretation"; an alternative possibility is "director interpretation."

This section establishes the procedure and criteria that the city will use in deciding upon a written request to interpret the provisions of this title. The interpretation of the provisions of a development agreement or concomitant agreement will be treated as an interpretation of the unified development code.

- (1) Applicability. This section applies to each written request to interpret the provisions of the unified development code, with the exception of unclassified uses.
- (2) Purpose. An interpretation of the provisions of the unified development code clarifies conflicting or ambiguous wording or the scope or intent of the provisions of the unified development code. A request for a code interpretation must relate to a specific site, zoning district, classified use, or application within the city of Stanwood. An interpretation of the provisions of the unified development code may not be used as, or considered to be, an amendment to the unified development code.
- (3) Application Requirements. Any person requesting an administrative interpretation must submit a written request on a form provided by the city specifying each provision of the code for which an interpretation is requested, why an interpretation of each provision is necessary, and any reasons or material in support of a proposed interpretation.
- (4) Procedure. An application for an administrative interpretation follows the procedure described in Title 18 Part 2. The Director must interpret the provisions of the unified development code in conformance with this section.

-  Deleted existing paragraph (c) referring to unclassified uses because such uses are not within the applicability statement of this section.

- (5) Timing. An administrative interpretation requested by a person other than the project proponent or property owner must be requested prior to the date of expiration of any applicable administrative appeal period for a land use decision on the application to which the request relates. An administrative interpretation requested after the applicable appeal period may not affect an issued permit or decision.

- (6) Factors for Consideration. In making an administrative interpretation, the Director must consider the following factors:
- (a) The applicable provisions of the unified development code, including their purpose, intent, and context;
 - (b) The impact of the interpretation on other provisions of the municipal code;
 - (c) The implications of the interpretation for development within the city as a whole;
 - (d) The applicable provisions of the Comprehensive Plan and other relevant codes and policies; and
 - (e) Any applicable state statutes and court decisions.
- (7) Effect of Interpretation. An interpretation of the code issued under this section has the same effect as any provision of the unified development code.
- (8) Time Limitation. An administrative interpretation of the code remains in effect until rescinded in writing by the director or this title is amended to implement or override the interpretation.

 A best practice is to require the Director maintain an archive of interpretations that are in effect, e.g., on the website.

18.100.070 Violations

 This section is based on existing SMC 17.80.490 Violations. Deleted paragraphs purporting to give unlimited inspection authorization to city staff, and authorizing withholding permits.

- (1) Any person violating any provisions of this title is subject to enforcement per SMC Title 13.
- (2) Any building, structure, development, activity, land use, or division of land, not in conformance with this title and not a legal nonconformance or exempted by a policy governing existing nonconforming structures or uses, is declared to be unlawful, substandard, and a public nuisance, and is subject to the enforcement and abatement provisions in SMC Title 13.
- (3) The Director must withhold issuance of any occupancy permit until the provisions of this code, including the conditions on any permit issued thereunder, have been met.
- (4) The Director must regularly monitor a permittee's compliance with the terms and conditions of its project permit.

 Recommend deleting next paragraph, as potentially violative of Chelan County v. Nykreim, 52 P.3d 1, 146 Wash.2d 904 (2002).

- (5) Violation of any term or condition of any development permit issued or approved pursuant to this code is grounds for revocation or suspension thereof. Violation of any term or condition of any occupancy or development permit or lease issued prior to the effective date of this code shall, to the maximum extent permitted by law, be grounds for revocation or suspension thereof. In addition, violation of any development, concomitant, annexation, pre-annexation, or latecomer's agreement shall also provide grounds for revocation or suspension of development permits.

Chapter 18.102 Definitions and Rules of Interpretation.

i The definitions that appear below are new material that is necessary to the adoption of new Title 18. Definitions in existing Chapter 17.20 will be migrated here when Title 18 is completed.

18.102.010 Applicability

- (1) The definitions in this chapter apply to terms used throughout Title 18.
- (2) Definitions in SMC Chapter 17.20 are being migrated to SMC Chapter 18.102 in the City's new Unified Development Code. Definitions in SMC Chapter 17.20 remain in effect until repealed and apply to both Title 17 and Title 18. Where definitions in SMC Title 17 conflict with SMC Title 18, the new definitions in SMC Title 18 control for regulations in SMC Title 18.

18.102.015 Rules of Interpretation

i The rules in existing SMC 17.20.005 are now found in SMC Chapter 1.02.

! We should add this rule to SMC 1.02:
The word "should" indicates that which is recommended but not required.

- (1) The rules of interpretation in SMC Chapter 1.02 apply to this title.
- (2) The word "used" includes designed, intended, or arranged to be used.
- (3) Distances must be measured horizontally unless otherwise specified.

18.102.020 "A" Definitions

18.102.030 "B" Definitions

18.102.040 "C" Definitions

i This definition of cultural resources is based on WAC 365-196-450.

"Cultural resources" means lands, sites, and structures that have cultural, historical, archaeological, or tribal significance, or other traditional cultural properties.

18.102.050 "D" Definitions

"Department" means the Community Development Department.

"Director" means the Director of Community Development appointed per SMC Chapter 2.08, or the Director's designee.

"Development permit" means a project permit as defined in this chapter.

18.102.060 "E" Definitions

18.102.070 "F" Definitions

18.102.080 "G" Definitions

18.102.090 "H" Definitions

18.102.100 "I" Definitions

18.102.110 "J" Definitions

18.102.120 "K" Definitions

18.102.130 "L" Definitions

18.102.140 "M" Definitions

18.102.150 "N" Definitions

18.102.160 "O" Definitions

18.102.170 "P" Definitions

"Project permit" includes the meaning established in RCW 36.70B.020, or any other permit or authorization required by the Department for construction or exterior alteration of structures (including building permits and other permits issued pursuant to SMC Title 18), dredging, drilling, dumping, filling, earth movement, clearing or removal of vegetation, Class IV general forest practices, Class III forest practices with Conversion Option Harvest Plans as defined in Chapter 222-16 WAC, or other site disturbance; but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations.

18.102.180 "Q" Definitions

"Qualified professional" means a person with experience and training in a field that is applicable to the work to be performed by this person. For critical areas, see also the requirements of SMC 18.800.160.

18.102.190 "R" Definitions

Review time period: the allowed time for review of a project permit application specified for each type of review in Table 18.210.___-1 and calculated by SMC 18.22.___.

18.102.200 "S" Definitions

18.102.210 "T" Definitions

18.102.220 "U" Definitions

18.102.230 "V" Definitions

18.102.240 "W" Definitions

18.102.250 "X" Definitions

18.102.260 "Y" Definitions

18.102.270 "Z" Definitions

Part 2 Applications

i Part 2 is the collection of procedural provisions that is the primary focus of this ordinance.

Chapter 18.210 General Provisions

i This is a new chapter based on existing SMC Chapter 17.80 Article I, General Provisions.

18.210.010 Purpose.

i This is existing SMC 17. 80.100.

In enacting regulations to conform with Chapter 36.70B RCW, the city intends to establish a mechanism for implementing the provisions of the Growth Management Act regarding compliance, conformity and consistency of land use development permit review with the city's adopted Comprehensive Plan and existing development regulations. In order to achieve this purpose, the city finds that:

- (1) Considerable time and effort went into the adoption of the city's Comprehensive Plan under the mandates of the Growth Management Act. The Comprehensive Plan and the city's supporting development regulations identify land use types, densities, minimum development standards, and mitigation for critical areas and public impacts. These documents are the foundation for project and environmental review in the city. The city may not reanalyze these basic land use planning decisions when making a permit decision.
- (2) The land use development permit review process must determine consistency between the proposed project and applicable regulations or plans through an integrated project and environmental impact analysis that run concurrently with each other, not separately.
- (3) This chapter provides a coordinated review of zoning and other development regulations to ensure that proposed site development complies with the city's Comprehensive Plan, zoning regulations, public works standards, and other applicable development regulations.

18.210.020 Applicability.

i This is existing SMC 17.80.110 Applicability. Deleted section about rulemaking, which is now in 18.100.050.

The provisions of this part apply to all development permits identified in this code and to any related regulation implementing these provisions or any other ordinance or law.

18.210.030 Permit Required

i This is existing SMC 17.80.120 Permit required, renumbered.

! Deleted “permit” from the list below, because the sentence is structured as “a permit is required for ____.”

(1) A permit is required for any of the following including but not limited to:

- (a) buildings and work not exempt under the adopted building codes;
- (b) boundary line adjustments;
- (c) subdivisions;
- (d) binding site plans;
- (e) planned unit developments;

! Patricia added development agreements to this list below, but since those are legislative and require adoption by ordinance, I’d remove them from the list of “permits” and not subject them to the other processes and timelines of this chapter. Concomitant rejection of deletion in next section.

- (f) development agreements;
- (g) conditional uses or variances;
- (h) shoreline substantial development;
- (i) site plan review;
- (j) signs;
- (k) permits or approvals required by critical area ordinances;
- (l) permits subject to review under the State Environmental Policy Act (SEPA);
- (m) right-of-way encroachment activities per Title 11;
- (n) engineering permits (e.g., right-of-way, clearing, grading, filling), and
- (o) site-specific rezones authorized by the comprehensive plan or a subarea plan.

(2) No permit or approval may be issued for any parcel of land developed or divided in violation of this title.

18.210.040 Permit Exemptions

i This is existing SMC 17.80.130 Exemptions.

(1) Notwithstanding any provision in this title to the contrary, no permit is required pursuant to this chapter for the following types of development:

- (a) Accessory structures in a residential zone that do not require a building permit according to the most recently adopted International Building Codes;
 - (b) Fences;
 - (c) Adoption or amendment of a comprehensive plan, subarea plan, or development regulations, which are legislative actions that must be adopted by the City Council by ordinance; and
 - (d) Annexations, which are processed per Chapter 17.158 SMC.
- (2) Where immediate action by a person is required to protect life and public property from imminent danger, or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by natural disaster or serious accident, or in other cases of emergency, the requirement of obtaining a permit prior to initiating such action under this section may be waived by the Director. The applicant must notify the Director, in writing, of the type and location of the work, the length of time necessary to complete the work, and the name of the person or public agency conducting the work. Work must be commenced within 30 days following the disaster, accident, or other emergency. However, this does not preclude the requirement for building permits for such activity. One 30-day extension may be permitted by the Director if progress towards project completion is demonstrated.

18.210.050 Fees

i This is a new general section.

- (1) The City may establish requirements for fees for various types and classes of permits through its adoption of a fee schedule per SMC 3.20.040.
- (2) Fee refunds are allowed per SMC 3.20.100.

18.210.080 Vesting

i This is existing SMC 17.80.210 Vesting.

- (1) An application for a project permit, except those which seek variance from land use regulations, must be considered under the development regulations in effect on the date of a complete application. For purposes of this section the “date of a complete application” means the date on which the application is deemed or determined complete.

i Deleted paragraph about determination of completeness, which is handled elsewhere.

- (2) Supplemental information required after vesting of a complete application does not affect the validity of the vesting for such application unless the information is requested because incorrect information was submitted by the applicant and if the incorrect information would materially affect the final decision on the application.
- (3) An applicant-requested modification occurring either before or after issuance of the permit eliminates vesting when such modification would result in a substantial change in a project’s review requirements, as determined by the Director. Under such a condition, the application will be deemed a new application. See SMC 18.220.040, Application Revision.
- (4) Applications for subdivisions that propose to create offspring lots within a parent site comprising existing detached condominiums or attached townhouses for which a grading or building permit has been issued vest to the site development requirements and standards in effect at the time such grading or building permit application was determined to be complete by the city.

- (5) Building permits that may be subsequently required to construct or complete a vested site development permit are subject to the edition of the building code in place at the time of application.
- (6) Nothing herein restrict the Director's authority to impose permit conditions pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW and WAC 197-11-600.
- (7) Filing an application does not vest the payment of fees. Fees due, including impact mitigation fees, application fees, or other charges, are those fees in effect on the date the fee is paid in accordance with the most current city council fee resolution.

18.210.090 Decision Criteria

i This section is based on existing SMC 17.80.140 Permit approval criteria.

- (1) A permit must be granted if the city finds, based on substantial evidence in the record, that the development is consistent with the goals, policies, requirements and performance standards of the Stanwood Municipal Code, the street and utility standards, and other applicable laws and regulations. Consistency must be established by determining if the following four factors have been met:
 - (a) The type of land use permitted at the site, 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.
 - (b) The level of development, such as units per acre or other measures of density, meets the zone for which it is located, including any density bonus provisions.
 - (c) Availability and adequacy of infrastructure, public facilities and services needed to serve the development as identified in the Comprehensive Plan, including but not limited to: transportation, utilities, parks, and capital facilities.
 - (d) The character of the development is consistent with all applicable development and design standards.
- (2) The project as proposed must incorporate, to the maximum extent feasible, mitigation measures to substantially lessen or eliminate all adverse environmental impacts of the development.
- (3) The project must be connected to the city water, sewer, and stormwater systems.

Chapter 18.220 Applications

i This is a new chapter based on existing SMC Chapter 17.80 Article II, Application Provisions and Procedures.

18.220.010 Pre-application requirements

i This is a new section as a placeholder to generally describe any pre-application requirements.

! Note this section is for any requirements prior to application, not the pre-app meeting.

18.220.020 Pre-application meeting

i This is based on existing SMC 17.80.200 Pre-application meeting.

i Deleted section about pre-app meetings being free; that should be set by fee schedule.

- (1) The purpose of a pre-application meeting is for the applicant to provide preliminary information and specific questions regarding the development proposal, and for the City to provide the applicant with preliminary information about development requirements, procedural and submittal requirements (e.g. applications and fees required), known community concerns (if any), and answers to specific questions asked by the applicant.
- (2) For the city to accurately evaluate the proposed project at the pre-application meeting, the applicant must provide at a minimum a draft site plan, preliminary grading and critical area plans, and locations of drainage and utility connections.
- (3) At the applicant's request, a pre-application conference may be scheduled with representatives of the city planning, engineering, fire and building departments. The purpose of the pre-application process is for the applicant to provide city staff with the necessary information about the proposed project and site conditions so that the city can provide the applicant with the requirements that must be met in order to have the proposed project proceed through the formal permit review process.
- (4) It is impossible for the meeting to be an exhaustive review of all potential issues. The discussions at the meeting do not bind or prohibit the city's future application or enforcement of all applicable laws.
- (5) Information provided at the pre-application meeting, including but not limited to conceptual site and civil construction plans, building concepts, environmental documents or interpretation requests, does not vest a development.
- (6) While pre-application meetings are informational in nature, it is the responsibility of the applicant to ensure their project meets the minimum requirements of the Stanwood Municipal Code and city street and utility standards.

18.220.030 Application Contents

i This is based on existing SMC 17.80.220 Submittal requirements.

i New directive to submit applications via online system.

- (1) An application for a project permit must provide the information required on the relevant application checklist provided in this section and be submitted on the forms and using the electronic system provided or as directed by the Department.

(2) Applications must include:

- (a) Scaled Drawings. Site and construction plans drawn to an engineering scale of appropriate size to read and verify drawing elements.
- (b) Plans. Unless waived by the Director, plans must be prepared by a registered engineer, architect, landscape architect, or land surveyor illustrating the proposed development of the property.
- (c) Evidence of Ownership or Legal Interest. All applications must be signed by the property owner or an authorized representative as follows:
 - (i) The applicant must be required to show evidence in writing of his or her legal interest in and the right to perform development upon all property on which work would be performed.
 - (ii) A developer may operate under the property owner's authority.
 - (iii) The developer and/or property owner is either an individual or a duly formed and qualified corporation, partnership or other legal entity.
 - (iv) The person signing all applications or other legal documents is authorized by the legal entity and/or property owner to do so.
- (d) An accurate address, assessor's parcel number(s), and legal description of the property subject to the requested permit.
- (e) A statement signed by the applicant stating that the information as shown on the plans, maps, and application is true and correct. Any failure to comply with the provisions of this section is good cause to deny the application and/or to revoke any permit which may have been issued for any building or use of land.

(3) Application and inspection fees must be paid at the time of application as set forth in the fee resolution adopted by the city council.

i The following is based on existing SMC 17.80.260 Complete application requirements.

- (4) An applicant may request a waiver of any of the submittal requirements where they can prove to the satisfaction of the community development director's office that a waiver is appropriate.
- (5) The Director may waive in writing specific submittal requirements determined to be unnecessary for review of an application. Alternatively, the Director may require additional material, such as maps, studies, or models, when the Director determines such material is needed to adequately assess the proposed project and submits the request in writing to the applicant.

i To minimize work and expense with the code reviser, we've inserted a code reviser instruction here rather than replicate the tables.

! If you also need to modify the tables, we should add them as an attachment, with an appropriate instruction to the code reviser, rather than try to insert them here.

The tables in existing SMC 17.80.260 are recodified to this section and numbered as follows:

Table 18.220.030-1 Type 1 Application Requirements, Director decision without notice

Table 18.220.030-2 Type 2 Application Requirements, Director decision with notice

Table 18.220.030-3 Type 3 Application Requirements, Hearing Examiner decision

Table 18.220.030-4 Type 4 Application Requirements, City Council decision

18.220.040 Application Revision

i This section is new material.

(1) Applicability.

- (a) This section applies to applications that have been submitted for review but not for issued permits.
- (b) For rules regarding revisions of issued permits, see SMC 18.310.020.
- (c) For rules regarding alterations of subdivisions, see SMC Title 16.

i The following line attempts to eliminate any distinction between a “revision” and some other response to requests for more information. This clarity is important for compliance with the new review time period requirements.

- (d) Any response to the Department’s request for more information on an application is considered a revision to the initial application.

! Staff to carefully consider whether this captures everything you want to consider a minor revision.

(2) Minor revisions authorized.

- (a) An applicant may make minor revisions to the application after the determination of completeness. A “minor revision” to an application includes changes to:
 - (i) floor plans that do not substantially alter the site plan;
 - (ii) exterior building configurations that do not create a substantially greater bulk or scale;
 - (iii) building placement that does not change the general location and layout of the site;
 - (iv) grading alterations that do not change the basic concept, significantly increase slopes, or building elevations, or change course of drainage which could adversely affect adjacent or surrounding properties.
- (b) A minor revision does not include:
 - (i) change in the type of construction (e.g., site-built to manufactured home, wood-frame to steel);
 - (ii) change in occupancy that requires substantial change to the structure (e.g., garage to ADU).

- (3) Any revision other than a minor revision requires a new application, which restarts the applicable Review Time Period. The Director may authorize fees paid to be refunded per SMC 3.20.100.

18.220.050 Application Withdrawal

i This section is new material.

- (1) Applicability. This section applies to any application submitted for review under this Chapter.
- (2) An applicant may withdraw an application at any time via notice in writing to the Department. Withdrawal of an application stops all review. Review of a withdrawn application may not be restarted.
- (3) Application fees may be refunded only as allowed by SMC 3.20.100, refunds.

18.220.060 Application Expiration

i This section is new material.

- (1) Applicability. This section applies to any application submitted for review under this Chapter.
- (2) Application expiration.
 - (a) Unless review is suspended under SMC 18.230.040(3)(b), if the Department requests more information from the applicant about the application, the applicant has 120 days to respond with the requested information.
 - (b) If the applicant does not respond within the required period, the Director may expire the application for failure to timely submit requested information by providing the applicant with written notice of expiration.
 - (c) If the Director expires an application, the applicant must submit a new application, including any applicable fees, to restart the review process.
 - (d) The Director may grant one or more 3-month extensions (not to exceed three extensions) if:
 - (i) a written request for extension is submitted prior to expiration of the application;
 - (ii) based on information in the request, the Director concludes that the applicant is making reasonable progress toward submitting the required information;
 - (iii) in the opinion of the Director, extraordinary circumstances excuse a delayed response.

18.220.070 Applications for Phased Projects

i This is existing SMC 17.80.240 Phased permit applications.

- (1) Projects may be completed in phases, provided the phasing meets the requirements of this section and conforms to the approved phasing plan. The regulations in effect at the time of the original approval continue to apply.
- (2) An applicant must describe and submit site plans that clearly show the various phases or stages of the proposed development and how the requirements of this title will be satisfied with respect to each phase or stage.
- (3) Each phase must stand on its own in terms of meeting the requirements of the permit and this title. For example, improvements necessary to support Phase 1 cannot be deferred to be constructed in Phase 2.
- (4) The vehicle and pedestrian circulation pattern at the end of each phase must result in a configuration that does not create traffic hazards and that adequately supports the level of traffic anticipated to be generated during each phase.
- (5) Phased development authorized in one permit may be commenced with separate building permits; however, each phase must be initiated prior to the overall permit expiration period as provided in Table 18.310.010-1, Permit Terms and Extensions. All construction must conform to the International Building Code and International Fire Code regulations in force at the time of building permit application.

18.220.080 Reapplication

i This section is based on existing SMC 17.80.480 Reapplications.

- (1) Reapplication Following Denial of Permit. Whenever an application for a land use permit or a variance is denied, the same or similar permit application may not be resubmitted for a period of one year from the date of denial unless the applicant clearly demonstrates that:
 - (a) The zoning classification or relevant development standards have changed;
 - (b) New information is available that could not with reasonable diligence have been presented at a previous hearing; or
 - (c) The project is modified in such a manner so as to correct the defects on which the original denial was based.

Chapter 18.230 Review Process

i This is a new chapter based on existing SMC Chapter 17.80 Article III, Permit Review Procedures.

18.230.010 Foundation of Review

i This is existing SMC 17.80.300 Purpose.

It is the intent of this chapter to provide the review procedures for applications and land use actions classified as Types 1 through 4 permits. These procedures are intended to outline the permitting process once an application has been submitted.

18.230.020 Types of Review

i This section is based on existing SMC 17.80.230 Permit types and existing SMC 17.80.310 Permit review process. The narrative descriptions of review types contained within those sections has been removed in favor of describing the processes in only one place, i.e., the table.

- (1) Decisions on permit applications are governed by several types of review processes, described and distinguished in this section. The types of review are generally organized in ascending order of significance, amount of public process, and level of discretion exercised by the decisionmaker.
- (2) Table 18.230.020-1 identifies the type of review applicable to each type of application or decision and describes the process for each type of review.
 - (a) The types of applications and decisions that are subject to each type of review are listed in the first row beneath the header for each type.
 - (b) The processes required for each type of review are further described by the remainder of the column beneath the heading for each type.
- (3) The Director must determine the proper review type for all applications consistent with Tables 18.230.020-1 and 18.230.020-2 and this subsection.

- (a) Consistent with the integration of environmental review required by SMC 18.230.020, if a project that would otherwise be characterized as Type 1 requires SEPA review (is not SEPA-exempt), it must be processed as a Type 2 (or higher) review.
- (b) See SMC 18.230.030 for the process for consolidation of multiple applications for a single project.
- (c) If there is a question as to the appropriate type of process, the Director must resolve it in favor of the higher-numbered type.

i Next line is based on 17.80.230(1) and (4).

- (d) If a permit or land use action is not listed, the Director is authorized to determine the appropriate review type based on the amount of discretion exercised by the decisionmaker, the level of impact associated with the decision, the amount and type of public input, and the type of appeal opportunity.

- i** The table below consolidates existing SMC 17.80.230, Table 1, and existing SMC 17.80.310, Tables 3A and 3B.
- i** Existing code created a fifth type of review for City Council decisions on street vacations, final plat approvals, and annexations. Final plat approval, as a ministerial action, is moved to Type 1 per recent amendment of RCW 58.17.100. Street vacations and annexations are not project permits, are not subject to the requirements for project permits, and not included in this table.
- i** Existing code differentiated between the forest practices waiver for the six-year moratorium on development for single-family residential versus other development. That distinction is no longer supported by state law, so all forest practice waivers are now Type 2.
- i** Existing code included a public meeting before the Planning Commission prior to a decision by the Hearing Examiner for some types of permits. This is contrary to best practice and may be violative of the limitation in RCW 36.70B for only a single public hearing to be held on a given application. This meeting has been removed.
- i** Moved Concurrency Evaluation to Type 1.
- i** Review time periods under existing SMC 17.80.360 are 120 days for all permits. RCW 36.70B.080, amended by 2SSB 5290 in 2023, requires local governments to adopt new review time periods specific to various types of permits. The proposed time periods below are the defaults from the statute, but may be modified, but “should” not exceed the default time periods.
- i** Existing code did not clearly distinguish multifamily or commercial/industrial developments at the threshold levels between review types.
- i** Existing code elevated “developments with 5+ substantive comments” to Type 3 Hearing Examiner review. This provision is not a best practice, would make it more difficult to achieve the new statutorily required review periods, and has been removed.

- !** Patricia added final plats to the table below, but I deleted that because it’s addressed in the land division table that follows.
- !** Should we try to find a better term than “non-administrative” variance?
- !** I like the additions of standard/shoreline notice periods! I may steal that for future procedure chapters.
- !** I try not to say “judicial appeal” because not all permit types go from local appeal to court, e.g., shoreline permits.

Table 18.230.020-1 Types of Review

	Type 1 Director decision without notice	Type 2 Director decision with notice	Type 3 Hearing Examiner decision	Type 4 City Council decision
Applications Subject to this Type of Review	• Single-Family Residential Building Permits • Fire Permits • Multifamily Residential Projects ≤ 40 Units • Commercial and industrial development ≤ 12,000 square feet • Mixed-Use Developments ≤ 20 Units • Accessory Dwelling Unit • Administrative Zoning Code Interpretation • Boundary Line Adjustment • Code Enforcement • Concurrency Evaluation • Encroachment (ROW) Permit • Floodplain Development • Grading • Home Occupation • Manufactured Home Infill • Parcel Combination • Public Works Deviation Requests • Right-of-Way Permits • Sign • TN – Public Facilities • WCF Small Cell • WCF Co-Located • WCF Minor Modification	• Multifamily Residential Projects > 40 Units • Commercial and Industrial Developments > 12,000 Square Feet • Mixed-Use Developments > 20 Units • Administrative Variance • Binding Site Plans • Reasonable Use Permit • Right to Farm • SEPA Determinations • Shoreline Substantial Development Permit • Short Plats • Waiver of 6-year forest practices moratorium	• Conditional Use Permit • Preliminary Plat; Including PRDs, Cottage, and Offspring Subdivision • Essential Public Facilities • Shoreline CUP • Shoreline Variance • TN – Residential Subdivisions • Non-administrative Variance • TN – Commercial/Mixed-Use Projects • WCF Monopole • WCF Deviation • Code Enforcement Appeals • Building Code Appeals • Administrative Appeals	• Development Agreement • Site-Specific Rezone
Pre-App Conference	Optional	Optional	Optional	Optional
Notice of Application	No	Yes	Yes	Yes
Standard Comment Period	None	15 days	15 days	15 days

	Type 1 Director decision without notice	Type 2 Director decision with notice	Type 3 Hearing Examiner decision	Type 4 City Council decision
Shoreline Permit Comment Period	None	30 days / 2 notices	30 days / 2 notices	30 days / 2 notices
Recommendation By	None	None	Director	Hearing Examiner
Standard Public Hearing Notice	None	None	10 days	10 days
Shoreline Public Hearing Notice	None	None	15 days	15 days
Pre-Decision Open- Record Public Hearing	No	No	Yes, held by Hearing Examiner	Yes, held by Hearing Examiner
Decisionmaker	Director	Director	Hearing Examiner	City Council
Notice of Decision	No	Yes	Yes	Yes
Review Time Period	65 days	100 days	170 days	170 days
Local Appeal To	Hearing Examiner	Hearing Examiner	None	None
Local Appeal Hearing	Open-Record	Open-Record	N/A	N/A

(4) Exceptions to Table 18.230.020-1:

- (a) Default and shoreline comment periods are shown in the table; for land divisions, see subsection (5).
- (b) Review time periods are measured from the date of the Department's determination the application is complete; see SMC 18.230.050. Default review time periods are shown in the table, with the following exceptions:
 - (i) long subdivisions are governed by RCW 58.17.140;
 - (ii) SEPA threshold determinations are governed by WAC 197-11-310 and SMC 18.230.070;
 - (iii) eligible collocation and modification requests for wireless facility services is governed by SMC 17.200.

(5) Table 18.230.020-2 identifies the types of review for a land division based on the proposed number of lots, tracts, or parcels.

Table 18.230.020-2 Types of Review for Land Divisions

Type	Number of lots/tracts/parcels	Type of Review			
		Preliminary	Final	Alteration	Vacation
Short subdivision	1-9	2	1	2	2
Subdivision	10 or more	3	1	3	2
Binding site plan	1-8 (or in an existing development)	2	n/a	1	2
Binding site plan	9 or more	3	n/a	1 (minor)	2

18.230.030 Consolidation of Review

i This is existing SMC 17.80.250 Consolidated permit review.

- (1) If a project action requires more than one project permit, the applicant may elect in writing to have the applications reviewed under a consolidated permit review process. This includes a combined application review and approval process covering all project permits requested by an applicant for all or part of a project action and a designated permit coordinator. If an applicant elects the consolidated process, the determination of completeness, the notice of application, and notice of final decision must include all project permits being reviewed through the consolidated permit review process.
- (2) When applying concurrently for a development that involves two or more related applications, individual permit numbers must be assigned and separate permit fees must be paid, but the applications must be reviewed and processed collectively at the applicant's request. Consolidated reports setting forth the recommendation and decision must be issued.
- (3) If the applicant elects to have a project reviewed under a consolidated permit process, it must be reviewed collectively under the highest numbered procedure required for any part of the application.
- (4) No hearing or deliberation upon an application that is inconsistent with the existing zoning map may be scheduled for the same meeting at which the required zoning map amendment will be considered by the appropriate hearing body. This section is intended to be a procedural requirement applicable to such actions as noted in RCW 58.17.070.

i The following is new material:

- (5) Integration of State Environmental Policy Act ("SEPA") review.
 - (a) SEPA review of a project permit application must be combined with review of the underlying application unless the project is categorically exempt from SEPA. If studies that adequately analyzed a project's specific probable adverse impacts have already been performed under another SEPA review process, then additional or redundant studies may not be required under SEPA.
 - (b) A project permit application subject to review under SEPA must be reviewed in accordance with the policies and procedures contained in this title and WAC Chapter 197-11.
 - (c) Per WAC 197-11-055(4), SEPA review may be performed on a project prior to submittal of a project permit application, but may need to be performed again as part of review of the permit application dependent on the level of detail evaluated in the initial review.

18.230.040 Timing of Review

i This section is based on existing SMC 17.80.360 Application review time frames, with updates to comply with 2SSB 5290 (2023), now codified in RCW 36.70.080. The statute uses the term "time period."

- (1) Purpose. RCW 36.70B.070 and 36.70B.080 require time periods be established for review of applications to ensure applications are reviewed in a timely and predictable manner. This section establishes the time frames and procedures for issuance of a final decision.
- (2) Applicability.
 - (a) The Review Time Periods identified in Table 18.230.020-1 apply to applications processed under the corresponding type of review. The Department must complete review of an application within the corresponding Review Time Period.

- (b) The Review Time Periods do not apply if a permit application requires:
- (i) An amendment to the Comprehensive Plan or development regulations; or
 - (ii) Approval of a new fully contained community, master planned resort, or the siting of an essential public facility; or
 - (iii) Substantial revisions by the applicant, in which case the time period must start from the date at which the revised project application is determined to be complete.

i The review time periods shown in the table are the default time periods in the statute. Per RCW 36.70B.080: A jurisdiction may modify the deadlines to add permit types not identified, change the permit names or types in each category, address how consolidated review time periods may be different than permits submitted individually, and provide for how projects of a certain size or type may be differentiated, including by differentiating between residential and nonresidential permits.

i The following text is nearly verbatim from revised RCW 36.70B.080(1)(g), which goes into effect January 1, 2025. Until that date, the statute in effect suggests 120 days for all types of review.

- (3) The Review Time Period is measured by counting every calendar day and excluding the following:
- (a) Any period between the day that the Department 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;

i Inserted a 12-mo limit on suspension of an application as authorized by RCW 36.70B.080(1)(g).

- (b) Any period after an applicant informs the Department in writing that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the Department in writing that they would like to resume the application, up to 12 months;
- (c) 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;
- (d) Any period that review of the application is suspended by the Department pursuant to authorization elsewhere in this chapter;
- (e) Any extension of time mutually agreed upon by the applicant and the city.

i Next line based on RCW 36.70B.080(1)(h).

- (4) The Review Time Period starts 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 under SMC 18.230.050 for the new use.

i The following subsection is adapted from RCW 36.70B.080(1)(i), broken into subparagraphs. Note that this subsection allows for an extension of the maximum review period (a benefit to the Department) but not a constraint on the applicant's time to file new information.

- (5) The Review Time Period is extended by 30 days any time that an applicant informs the Department 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 Department has notified the applicant in writing that additional information is required to further process the application.

- (a) Any written notice from the Department to the applicant that additional information is required to further process the application must include a notice that non-responsiveness for 60 consecutive days may result in 30 days being added to the Review Time Period.
 - (b) For the purposes of this subsection, “non-responsiveness” means that an applicant is not making demonstrable progress on providing additional requested information to the local government, or that there is no ongoing communication from the applicant to the local government on the applicant's ability or willingness to provide the additional information.
- (6) Possible Extension of Time for Final Decision. If the city is unable to issue a final decision within the time limits provided herein, the applicant must be provided written notice of this fact. The notice must 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.

18.230.050 Review for Completeness

i This is existing SMC 17.80.320 Notice of completeness, except subsection (1), which is integrated into proposed SMC 18.102.040, Timing of Review. Note that state law does not allow the department to hold off issuing determination of completeness based on a desire to request more information than required by the minimum application contents.

- (1) Determination of Completeness. Within 28 calendar days after receiving an application, the city must issue a written determination of completeness to the applicant which states either: (a) that the application is complete and the date that it was determined complete; or (b) that the application is incomplete and state what additional information is necessary to make the application complete.
- (2) Additional Information. A permit application is complete for purposes of this section when it meets the application requirements in SMC 18.220.030.
- (3) A determination of completeness must be made when the required submittals are determined to be in a comprehensible format and contain at least the minimum amount of information to allow review of the project to progress even though additional information may be required or project modifications may be undertaken subsequent to initial project review.
- (4) The city's determination of completeness does not preclude the city from requesting additional information or studies either at the time of the determination of completeness or at some later time.
- (5) Incomplete Application Procedure. If the applicant received a determination of incompleteness from the city, the applicant has 120 days from the date of the determination of incompleteness to submit the necessary information to the city. Within 14 calendar days after an applicant has submitted the requested additional information, the city must prepare a written determination of completeness as described in the section above, and notify the applicant in the same manner.
- (6) If the applicant does not submit the required information within the 120-day period, the Director must expire the application for failure to submit the necessary information in a timely manner.
- (7) City's Failure to Provide a Determination of Completeness. If, within 28 calendar days of the date of the submitted application, the city has not provided a written determination of completeness, the application is deemed complete.

18.230.060 Notice of Application

i This section is based on existing SMC 17.80.330 Notice of application.

- (1) When required by SMC 18.230.020, the city must issue a notice of application within 14 calendar days after the city has made a determination of completeness.
- (2) The NOA must include:
 - (a) The date of application and the date of the notice of application;
 - (b) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070;
 - (c) The identification of other permits not included in the application, to the extent known by the city;
 - (d) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
 - (e) A statement of the limits of the public comment period;
 - (f) A statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a hearing, if applicable, request a copy of the decision once made, and any appeal rights;
 - (g) The date, time, place and type of meeting or hearing, if applicable and if it has been scheduled as of the date of notice of the application;
 - (h) A statement of the preliminary determination of consistency, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation;
 - (i) A map depicting the boundaries of the project site and, when applicable, a site map showing the proposal or website address where maps can be viewed;
 - (j) A statement announcing the city's goal of complying with the intent of the Americans with Disabilities Act, announcing accessibility, offer of assistance to persons with special needs, and availability of TDD services;
 - (k) Any other information determined appropriate by the city, such as the city's threshold determination, if complete at the time of issuance of the notice of application.

i Existing SMC 17.80.330 Table 5 has been removed because all permits except those that do not require a notice of application had the same distribution requirements.

- (3) Distribution. The Department must distribute the notice by:
 - (a) Posting at City Hall, the library, and the post office;
 - (b) Publication in Designated Newspaper;
 - (c) Electronic mail or first-class mail to:
 - (i) Adjacent Jurisdictions Within 1/4 Mile
 - (ii) WSDOT if Adjacent to Highway
 - (iii) Property Owners Within 300 Feet
 - (iv) Other Agencies with Jurisdiction

(v) Parties of Record.

- (4) All public comments on a notice of application must be received by the community development department by 4:30 p.m. on the last day of the comment period. Comments may be mailed, emailed, personally delivered, sent by facsimile or by any online digital method established by the city. Comments should be as specific as possible.

i Existing table at 17.80.330(5) has been integrated into the Review Type matrix.

- (5) No proceeding of any procedure established in this chapter may be found to be invalid for failure to provide mailed notice as required in this section as long as the other methods of notice have met their respective requirements and there was a good faith attempt to comply with the mailed notice requirements.
- (6) The records of the Snohomish County assessor's office or title company must be used for determining the property owner of record. Addresses for a mailed notice required by this code must be obtained from the Snohomish County real property tax records.
- (7) All public notices must be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first.
- (8) As an alternative to mailing the full notice of application, the city may issue a post card notice of application to adjacent property owners as long as the post card includes the website address where detailed information on the project is available for viewing.

18.230.070 SEPA Review

i This is existing SMC 17.80.340.

- (1) A SEPA threshold determination or a scoping notice may be issued with a Notice of Development Application. A final threshold determination of nonsignificance may not be issued until after the expiration of the public comment period on the notice of application unless the requirements of the optional DNS process (WAC 197-11-355) are followed. A final determination of significance and a SEPA scoping notice may be issued with the Notice of Development Application and prior to the expiration of the public comment period on the Notice of Development Application. Per RCW 36.70B.110(6)(b), for Type 3 and 4 reviews, the threshold determination must be issued at least 15 days prior to the open-record pre-decision hearing.
- (2) If the optional DNS process, as authorized under SEPA and set forth in this section, is used, the responsible official must:
- (a) State on the first page of the notice of application that it expects to issue a DNS for the proposal, and that:
 - (i) The optional DNS process is being used;
 - (ii) This may be the only opportunity to comment on the environmental impacts of the proposal;
 - (iii) The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared; and
 - (iv) A copy of the subsequent threshold determination for the specific proposal may be obtained upon request;
 - (b) List in the notice of application the conditions being considered to mitigate environmental impacts, if a MDNS is expected;
 - (c) Comply with the requirements for a notice of application and public notice in RCW 36.70B.110;

- (d) Send the notice of application and environmental checklist to:
 - (i) Agencies with jurisdiction, the Department of Ecology, affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal; and
 - (ii) Anyone requesting a copy of the environmental checklist for the specific proposal;
 - (e) If the responsible official indicates on the notice of application that a DNS is likely, an agency with jurisdiction may assume lead agency status during the comment period on the notice of application in accordance with WAC 197-11-940 and 197-11-948;
 - (f) The responsible official must consider timely comments on the notice of application and either:
 - (i) Issue a DNS or MDNS with no comment period;
 - (ii) Issue a DNS or MDNS with a comment period;
 - (iii) Issue a DS; or
 - (iv) Require additional information or studies prior to making a threshold determination;
 - (g) If a DNS or MDNS is issued under this section, the responsible official must send a copy of the DNS or MDNS to the Department of Ecology, agencies with jurisdiction, those who commented, and anyone requesting a copy. A copy of the environmental checklist need not be recirculated.
- (3) Any appeal of a determination of significance may proceed in advance of any hearings or appeals of the underlying project permit. Any appeals of a determination of nonsignificance must be combined with and processed at the same time as the hearings or appeals of the underlying project permit.

18.230.080 Staff Review

i This is existing SMC 17.80.350 Project review with the exception of existing subsection (3), which moved elsewhere.

- (1) Project Analysis. Upon determination that the proposed project is consistent with the adopted development regulations and standards a single staff report must be prepared that consolidates all land use development permit recommendations or decisions. The report must state any mitigation required or proposed under the development regulations or through SEPA. If a threshold determination, other than a determination of significance, has not been previously issued by the city, the report must include or append the SEPA threshold determination for the project. The SEPA threshold determination must be issued at least 15 calendar days prior to the opening of a public hearing.
- (2) Insufficient Information. If, upon review of a complete application, the city finds that additional information is necessary or corrections are required to be made to the plans to be consistent with city codes and regulations, the city must write a letter to the applicant detailing the necessary corrections. The applicant has 120 calendar days from the date of the letter requesting additional information to submit the necessary information to the city. If the applicant does not submit the required information within 120 calendar days, the application lapses for failure to submit the necessary information in a timely manner, and the Director must document that the application has lapsed for failure to submit the necessary information in a timely manner and expire the application. The director may allow for an extension to submit the required information per SMC 18.220.060.

i This following subsection is based on a provision in SB 5290 (2023), now codified at RCW 36.70B.160(1)(j), which creates the process described below. The statute is ambiguous as to whether the meeting need only be “scheduled” or held within 14 days.

(3) Requests for additional information or corrections.

- (a) If the Department twice requests additional information or corrections during application review, the Department must offer the applicant a meeting with Department staff to resolve outstanding issues. The meeting must be scheduled within 14 days of the second request for corrections.
- (b) If the meeting cannot resolve the issues and the Department requests additional information or corrections a third time, upon receiving the additional information or corrections the Department must forward the application to the decisionmaker for decision on the application.
- (c) Nothing in this section affects the timelines for application expiration in SMC 18.220.060.

18.230.090 Public Hearings

i This is existing SMC 17.80.370 Public meetings and public hearings. State law limits a local government permit process to a single open-record public hearing, regardless of what it is called, so the "public meetings" are proposed for deletion in this rewrite.

(1) Public Hearings. The purpose of having hearings is to provide decision makers with an opportunity to obtain additional information and to provide the public with an opportunity to introduce that information and to make their views known. Public hearings are required when this chapter or state law requires a hearing; when a hearing is required, the following applies:

- (a) A verbatim record must be kept;
- (b) Those present must be given the opportunity to testify under oath;
- (c) The hearing authority must be allowed to ask questions of those testifying;
- (d) The hearing must be conducted to ensure fairness to all parties;
- (e) The hearing authority may subpoena witnesses; and
- (f) A hearing may be kept open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six months or more elapses between meeting dates.

(2) Notices of public hearings must include the following information:

- (a) The date, time, and place and/or manner of the meeting or hearing.
- (b) Location of the site.
- (c) A brief description of the request, and any proposed modifications or variances.
- (d) Applicant’s name.
- (e) Project name and file number and a statement of its availability for inspection by the public.
- (f) A statement of the right of any person to submit written testimony to the appropriate permit-issuing authority and to appear at the public hearing to give testimony orally.
- (g) A statement that only persons who submit written or oral testimony to the permit-issuing authority may appeal the decision.

- (h) A statement announcing the city's goal of complying with the intent of the Americans with Disabilities Act, announcing accessibility, offer of assistance to persons with special needs, and availability of TDD services.

(3) Burden of Proof/Testimony.

- (a) The burden of presenting evidence to the permit-issuing entity sufficient to lead it to conclude that the application should be approved, conditioned, or denied is on the applicant. Unless otherwise specified in statute or ordinance, the standard of proof is the preponderance of the evidence.
- (b) All persons in attendance that wish to testify must be sworn in.
- (c) All findings and conclusions necessary to the issuance of a decision must be based upon reliable evidence.

(4) Joint Public Hearings.

- (a) Approval Authority's Decision to Combine Joint Hearing. At the applicant's request, the approval authority may combine any public hearing on a 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:
 - (i) The hearing is held within the city limits; and
 - (ii) The requirements of RCW 36.70B.110(7) 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 (RCW 36.70B.110(7)).
- (c) Prerequisites to Joint Public Hearing. A joint public hearing may be held with another local, state, regional, federal or other agency and the city, as long as:
 - (i) The other agency is not expressly prohibited by statute from doing so (RCW 36.70B.110(8));
 - (ii) Sufficient notice of the meeting or hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;
 - (iii) The agency has received the necessary information about the proposed project from the applicant in enough time to hold its meeting or hearing at the same time as the local government hearing; and
 - (iv) The meeting or hearing is held within the geographic boundary of the local government.

(5) Record.

- (a) Electronic recordings must be made of all hearings required by this chapter, and such recordings must be kept for at least two years. Accurate minutes must also be kept of all such proceedings, but a transcript need not be made. The written decision of a hearing examiner meets the requirement for minutes of the hearing examiner public hearing.
- (b) Whenever practicable, all documentary evidence presented at a hearing, as well as all other types of physical evidence, must be provided to the city in digital form, made a part of the record of the proceedings, and kept by the city for at least two years.

18.230.100 Hearing Examiner procedures

i This section is existing SMC 17.80.380 Hearing examiner procedures with the exception of (3) which is inserted here.

- (1) Any person may participate in a hearing examiner public hearing by submitting written comments to staff prior to the hearing or by submitting written comments or making oral comments at the hearing. Any party may be represented by an agent or attorney.
- (2) The department must transmit to the hearing examiner a copy of the department file on the application including all written comments received prior to the hearing and information reviewed by or relied upon by staff. The file must also include information to verify that the requirements for notice to the public (notice of application and notice of SEPA threshold determination) have been met.

i The following subsection is existing SMC 17.80.380 and 381 Report of department.

- (3) Department report.
 - (a) The Director is responsible for the preparation of a report to the hearing examiner that summarizes the factors involved and the department's findings and recommendations. Comments, reports, and recommendations from other departments, advisory boards and commissions, and agencies must be coordinated and assembled among departments and agencies in preparation of the report.
 - (b) At least seven calendar days prior to the scheduled hearing, the report must be filed with the hearing examiner and made available for public inspection at City Hall. A copy must be mailed to the applicant.
- (4) The department must create a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing.
- (5) The hearing examiner must approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with the applicable decision criteria of this code. The applicant carries the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that the application merits approval or approval with modifications. The hearing examiner may remand an application to staff for revision. In all other cases, the hearing examiner must deny the application.
- (6) If the hearing examiner requires a modification which results in a different proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided, the hearing examiner must conduct a new hearing on the modified proposal.
- (7) The hearing examiner may include conditions to ensure a proposal conforms to the relevant decision criteria.
- (8) The hearing examiner must within 10 business days following the close of the record, unless a longer time period is agreed to on the record by the applicant/appellant, issue a written report supporting the decision. The hearing examiner's written report must be distributed to parties of record electronically or in paper form by the community development department. The report must contain the following:
 - (a) The decision of the hearing examiner;
 - (b) Any conditions included as part of the decision;
 - (c) Findings of fact upon which the decision, including any conditions, was based and the conclusions derived from those facts; and
 - (d) A statement explaining the process to appeal the decision of the hearing examiner to superior court.

(9) Reconsideration Period. Any person who presented or commented at the hearing may file a written request with the hearing examiner for reconsideration within 10 business days of the date of the hearing examiner's decision. The request must explicitly set forth alleged errors of procedure or fact. The examiner must request comments from affected parties of record and reviewing city departments on the request for reconsideration. Comments must be received within 14 business days. The hearing examiner must act within 10 business days after the close of the comment period by denying the request, issuing a revised decision, or calling for an additional public hearing. A reconsideration request for which one of the actions specified above has not been taken within the required time period must be deemed to have been denied.

(a) The grounds for reconsideration are limited to the following:

- (i) The hearing examiner exceeded their jurisdiction;
- (ii) The hearing examiner failed to follow the applicable procedure in reaching their decision;
- (iii) The hearing examiner committed an error of law or misinterpreted the applicable city regulation, ordinance or other state law or regulation;
- (iv) The hearing examiner's findings, conclusions and/or conditions are not supported by the record; and/or
- (v) Newly discovered evidence alleged to be material to the hearing examiner's decision which could not reasonably have been produced prior to the hearing examiner's decision.

(b) The examiner's action following reconsideration is not subject to further requests for reconsideration.

(10) Proceedings before the hearing examiner must conform with the hearing examiner's rules of procedure.

18.230.110 Decision

i The following subsection is from existing SMC 17.80.350(3).

- (1) Applications may be approved, approved with conditions, or denied. For those permits subject to review by the hearing examiner, the examiner may remand an application to staff for further review. If an application for a permit is denied, the applicant may not submit another application for development of the same property sooner than one year after the date of such denial.
- (2) Following the completion of any hearing, procedure, or administrative decision, the permit application must be:
 - (a) approved;
 - (b) approved with conditions;
 - (c) remanded; or
 - (d) denied.

18.230.120 Notice of Decision

i This is existing SMC 17.80.385 Notice of final decision, with the exception of existing subsection (1), which moved above.

- (1) Where required by SMC 18.230.020, the Department must prepare a Notice of Decision within five calendar days of a decision.
- (2) Contents. The notice of decision must include:
 - (a) the final determination of approval or denial of the project,

- (b) a statement of any threshold determination made under SEPA, and
 - (c) the procedure to appeal the notice of decision.
- (3) When a notice of decision is not required by SMC 18.230.020, a memorandum or completed project checklist must be placed in the permit file containing findings describing how the application was consistent/inconsistent with applicable zoning regulations and development standards.
- (4) When a notice of decision is required by SMC 18.230.020, the notice must be mailed or emailed to all parties of record, including 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 issuance of the decision.
- (5) For shoreline permits, the director must notify the following persons in writing of its final approval or disapproval of a shoreline conditional use permit or shoreline variance:
- (a) The applicant.
 - (b) The Department of Ecology.
 - (c) Any person who has submitted written comments on the application.
 - (d) Any person who has written to the hearing examiner requesting notification.
- (6) If the city is unable to issue its notice of decision within the allotted time frame, it must 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.

i Exclusions for time limits has been moved to 18.230.040.

Chapter 18.240 Appeals and Reconsideration

i This is a new chapter based on existing SMC Chapter 17.80.390.

18.240.010 Local Appeal

i This is new material.

- (1) Applicability. This section applies to local appeals of decisions on permit applications when allowed by SMC 18.230.020.
- (2) Standing. Only the following parties have standing to file an appeal:
- (a) the City;
 - (b) the applicant; and
 - (c) a party of record.

i The appeal period length is set at 14 days by RCW 36.70B.110(6)(d) and (9).

- (3) Time to file. An appeal is timely only if it is:
- (a) Filed within 14 days (5 working days for shoreline permits) after the written notice of decision is mailed or the building permit is issued; and
 - (b) Accompanied by the required appeal fee.

- (4) Method of service. An appeal must be delivered to the Department before 4:30 p.m. on the last business day of the time to file by mail, personal delivery, or in an electronic method prescribed by the Department. An appeal received by mail after that deadline will not be accepted, regardless of when the appeal was mailed or postmarked.

i The following is existing SMC 17.80.390 Appeals with the exception of the subsection on standing, which is addressed above, and the appeal procedures table 7.

- (5) Processing of Appeals. Appeals of decisions on permits must be processed according to the procedures outlined in this section. The decisionmaker on the appeal may reverse or affirm or modify the decision, if it is found the original decision was based on faulty facts or incorrect application of the law. Any modifications to the decision must be limited to those necessary to ensure the decision criteria of this title are met.
- (6) Effect of Appeal. Application decisions are assumed valid unless overturned by an appeal decision. An appeal stays all actions by the Director seeking enforcement of or compliance with the order or decision appealed from, unless the Director finds that a stay would, in their opinion, cause imminent peril to life or property, in which case proceedings must not be stayed except by order of the hearing examiner, Shorelines Hearings Board or a court with jurisdiction.
- (7) Consolidated Appeals. All appeals of permit application decisions, other than an appeal of determination of significance (DS), must be considered together in a consolidated appeal (RCW 36.70B.060(6), 43.21C.075).
- (8) SEPA Appeals. Appeals may only be of the determination of nonsignificance or mitigated determination of nonsignificance, or final determination if issued. See SMC 18.230.070 for SEPA and agency decisions.
- (9) Content of Appeal. Appeals must be in writing, be accompanied by an appeal fee as outlined in the city's most current fee resolution, and contain the following information:
- (a) Appeals must be submitted with a completed appeal form;
 - (b) Facts demonstrating that the person is adversely affected by the decision;
 - (c) A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;
 - (d) The specific relief requested; and
 - (e) Any other information reasonably necessary to make a decision on the appeal.
- (10) Notice of Appeal. A hearing before the Hearing Examiner, must be set and the hearing notice must be mailed or emailed to the appellant, the applicant, and all parties of record no less than 10 days prior to the appeal hearing.
- (11) Public Hearing. The hearing examiner must conduct an open record hearing. The appellant, the applicant, and the city are indispensable parties to the appeal. Each party may participate in the appeal hearing by presenting testimony or calling witnesses to present testimony. Interested persons, groups, associations, or other entities who have not appealed may participate only if called by one of the parties to present information or to present testimony. The examiner may allow nonparties to present relevant testimony if allowed under the examiner rules of procedure.
- (12) Decision on Appeal. The hearing examiner must issue a written decision to grant, grant with modifications, or deny the appeal. The hearing examiner may grant the appeal or grant the appeal with modification if:
- (a) The appellant has carried the burden of proof; and
 - (b) The examiner finds that the decision is not supported by a preponderance of the evidence.
 - (c) The hearing examiner must accord substantial weight to the decision of the applicable department director.

- (13) Decision of Appeal. The city must issue a written decision of appeal within 10 business days of the Hearing Examiner's decision to the parties of record disclosing whether the appeal is upheld or denied.

18.240.020 Exhaustion of Administrative Remedies

i This is a new section replacing SMC 17.80.390(12) and (13).

- (1) To exhaust administrative remedies, an appellant must file and complete the local appeal process identified in SMC 18.230.020 for the relevant type of review.
- (2) No further local appeal is available when the appeal allowed in SMC 18.230.020, if any, has been heard and a decision on the appeal (other than a remand) has been issued.
- (3) A request for reconsideration is not required to exhaust administrative remedies. If a request for reconsideration is timely filed, the time for filing a petition for further (non-local) review does not commence until the decisionmaker or appellate body disposes of the petition for reconsideration.

i The following is the second half of existing 17.80.390(13).

- (4) The cost of transcription of all records ordered certified by the court for such review must be borne by the appellant. A copy of each transcript prepared by an appellant must be submitted to the city for confirmation of its accuracy.

Part 3 Permits

i This proposed title emphasizes the distinction between "applications" and "permits," which are different in a number of important ways. For example, applications and permits have different timelines. The Department is obligated to process "applications" within specified time periods, but once the application is approved and the permit is issued, the burden switches to the permitholder to consider its timelines.

i Additional chapters in this Part will describe conditional use permits and variances.

Chapter 18.310 Permits Generally

i This is a new chapter based on existing SMC Chapter 17.80 Article IV, Post Permit Requirements.

18.310.010 Permit Terms, Extension, and Expiration

- (1) Applicability. This section applies to issued project permits, which is an authorization to perform the work or establish the use identified in the permit. After the expiration of the permit, legally established uses that become non-conforming are governed by the non-conforming uses provisions of Unified Development Code.
- (2) Initial term.
 - (a) A permit is valid for the initial term shown in Table 18.310.010-1 unless extended by the Director.
 - (b) A permit's initial term is measured from the date of project or permit approval (as specified in the Notice of Decision, if one is required), except that if the decision is appealed, the effective date is the date of decision on appeal. The initial term for a shoreline permit commences on the effective date of the permit as defined in WAC 173-27-090.

i The following subsection (3) is based on existing SMC 17.80.395 Expiration of approvals and approved permits.

- (3) Extension. The Director may extend a permit the number of times shown in Table 18.310.010-1, for the length of extension indicated, only if all of the following criteria are met:
- (a) The applicant submits a written request on forms provided by the Department at least 30 days prior to expiration of the permit;
 - (b) Any applicable fee has been paid;
 - (c) The permittee has proceeded with due diligence and in good faith;

i Note, prior language was "The zoning designation of the property has not changed;"

- (d) The use remains a permitted use in the zone;

i Next line is added to address limitations of Snohomish County v. Pollution Control Hearings Board (2016).

- (e) The extension is not prohibited by requirements of state or federal law;
- (f) Proper justification consists of one or more of the following conditions:
 - (i) Economic hardship;
 - (ii) Change of ownership;
 - (iii) Unanticipated construction, or site design problems, or both;
 - (iv) Other circumstances beyond the control of the applicant and determined acceptable by the appropriate department director.

i The following subsection (4) is new material.

- (4) Expiration.
- (a) A permit issued under this title will expire if, on the date the permit expires, the permitholder has not performed the work indicated in Table 18.310.010-1 or fulfilled the requirements of the applicable permit.
 - (b) Exception. The initial permit term does not include the time during which a permit was not actually pursued by construction because of pending litigation related to the permit or because the applicant was diligently pursuing permits from other agencies necessary for construction.

i The following table is based on Table 8 in existing SMC 17.80.395.

Table 18.310.010-1 Permit Terms and Extensions

Type of Permit	Initial Term	Number of Allowed Extensions	Length of Allowed Extension
Subdivision	5 years	1	1 year
Short Subdivision	5 years	1	1 year
Shoreline Permit	2 years	1	1 year
Conditional Use Permit	2 years to establish the use	0	N/A

Type of Permit	Initial Term	Number of Allowed Extensions	Length of Allowed Extension
Variance	2 years to establish the use	0	N/A
All other Type 1 Permits	1 year	1	1 year
All other Type 2-4 Permits	2 years	1	1 year

18.310.020 Permit Revision.

i This is existing SMC 17.80.420 Permit modifications.

- (1) Minor Modifications to an Approved Permit. Minor modifications to a permit may be permitted by administrative decision. To be considered a minor modification, the amendment must not:
 - (a) Involve more than a 10 percent increase in area or scale of the development in the approved site development plan; or
 - (b) Have a significantly greater impact on the environment and facilities than the approved plan; or
 - (c) Change the boundaries of the originally approved plan.
- (2) Major Adjustments to an Approved Permit. Major adjustments to an approved permit will require a new application. The review and approval rest with the approval body which approved the original permit. Major adjustments involve a substantial change in the basic site design plan, intensity, density, use, and other zoning code issues and generally involve more than a 10 percent change in area or scale.

18.310.030 Civil Construction Plans

i This section is based on existing SMC 17.80.400 Construction plan approvals.

- (1) Final civil construction plan applications may be submitted with the land use entitlement permit or after the land use entitlement permit process has been completed. At a minimum the 30 percent design plans must be submitted with the land use entitlement application. To obtain civil construction plan approval, the plans must be consistent with the Stanwood Municipal Code and the street and utility standards.
- (2) Approval of final civil construction plans is exempt from the application review processes described in SMC Title 18 Part 2.
- (3) Construction must begin on a building permit issued prior to the expiration times outlined in Table 18.310.010-1, Permit Terms and Extensions. If work has not begun prior to expiration of the land use entitlement permit, all plans must be resubmitted and comply with the current code requirements.

18.310.040 Inspections

i This is existing SMC 17.80.410 Inspections.

- (1) Once a permit is issued, inspections are required to verify that the construction or work is being done in accordance with the approved plans. Site inspections include, but are not limited to: erosion control, critical area protection, grading, pavement, roadway and sidewalk improvements, drainage, utility installation, parking and landscaping. The project applicant is responsible for ensuring all inspections have been conducted pursuant to city requirements.
- (2) Final project approval may not be given, whether a final plat approval or certificate of occupancy, until all of the required site improvements have been inspected, bonded and approved by the city inspector.

18.310.050 Effect of Decisions

i This is existing SMC 17.80.430 Effect of decisions.

- (1) No Occupancy or Use of Property Until Requirements Fulfilled. Issuance of a land use permit authorizes the recipient to commence construction activity, subject to obtaining appropriate building or construction permits, designed to support the approved land use. Actual occupancy or use of the approved land use may not occur until all requirements of the permit have been satisfied.
- (2) Transfer of Permit and Permit Applications on Successors and Assigns. Active land use permits and pending land use permit applications, including subdivisions, run with the land and therefore are transferable to new owners.

18.310.060 Certificate of Occupancy

i This is existing SMC 17.80.440 Certificate of occupancy.

- (1) No land area must be occupied or used and no building hereafter erected or altered may be occupied or used in whole or in part for any purpose whatsoever until an occupancy permit has been issued by the building official, stating that the premises, building, or other development complies with all provisions of this code. Minor exceptions include:
 - (a) Cases of alteration that does not require vacating the premises;
 - (b) Cases where parts of the premises are finished and ready for occupancy before the completion of the alteration; or
 - (c) In the case of a new structure, before its completion, a conditional occupancy permit may be issued.
- (2) No change, extension of use, or alteration may be made to a nonconforming use without a building permit having first been issued by the building official that such change, extension or alteration is in conformity with the provisions of this code.
- (3) Within 10 days from the date that an applicant requests that an occupancy permit be issued on his/her development project, the building official must render a decision as to whether or not said occupancy permit is to be issued. If the decision is not to issue the occupancy permit, the building official must so notify the applicant including the reasons for denial of the permit. If no occupancy permit has been issued within 10 working days of the written request thereof, and the building official has not informed the applicant of approval or denial, in writing, it must be deemed that the building official approves the request and the applicant may legally occupy the premises.

18.310.070 Vacation of Permit

i This is existing SMC 17.80.460 Vacation of approved permits.

- (1) A request to vacate a permit or variance must be made in writing to the Department.
- (2) The Director may vacate the permit or variance if the following conditions are present:
 - (a) The use authorized by the permit or variance does not exist and is not actively being pursued; or
 - (b) The use has been terminated and no violation of the terms and the conditions of the variance or permit exists.

Chapter 18.320 Conditional Use Permits

-  This chapter is based on existing SMC Chapter 17.40.
-  Deleted section on fees, which is now covered by a general fee section.

18.320.010 Purpose.

The purpose of conditional use permits is to allow certain uses in districts where they are normally prohibited by this title, when the proposed uses are deemed consistent with other existing and potential uses within the general area of the proposed use. Except as provided in this section, a conditional use permit may not reduce the requirements of the zone in which the use is to be located.

18.320.030 Review process.

An application for a conditional use permit is reviewed subject to the procedures in SMC Title 18 Part 2.

18.320.040 Applicant's responsibility.

The application must set forth fully the grounds and the facts justifying the granting of the conditional use permit consistent with the decision criteria in this chapter.

18.320.060 Decision criteria.

 Revised "community need" to "community compatibility" and changed criteria. Denying an application on community need may give rise to liability.

- (1) To approve an application for a conditional use permit, an applicant must demonstrate compliance with all of the following criteria:
 - (a) Zoning Compatibility. The proposed use must be compatible with the general purpose and intent of the zoning district as described in Chapter 17.10 SMC, Establishment of Zoning Districts.
 - (b) Community Compatibility: The use will not have a substantively greater adverse effect on the health, safety or comfort of persons living or working in the area than those generally permitted in the district. In the determination of community compatibility, the reviewing official must consider the following factors:
 - (i) Hours and manner of operation, such as dust, odor, fumes and vibration do not impact adjacent properties;
 - (ii) Existing infrastructure, such as roads, utilities, and parks, can accommodate the proposed use without degrading the adopted level of service standards; and
 - (iii) The proposal's impacts can be appropriately mitigated through the application of conditions of approval, as applicable.
 - (c) Effect on Adjacent Properties. The proposed use at the proposed location may not result in substantial or undue adverse effects on adjacent property. The following factors must be considered:
 - (i) Compatibility. The proposed use must be compatible with the scale and character of the neighborhood.
 - (ii) Traffic. Traffic and circulation patterns of vehicles and pedestrians relating to the proposed use and surrounding area must be reviewed for potential effects on, and to ensure safe movement in, the surrounding area.

- (iii) Noise and Glare. Potential noise, light and glare impacts must be evaluated based on the location of the proposed use on the lot and the location of on-site parking areas, outdoor recreational areas and refuse storage areas.
- (iv) Landscaping. The decisionmaker may require additional landscaping to buffer adjacent properties from potentially adverse effects of the proposed use.
- (v) Public Improvements. The proposed use and location must be adequately served by and not impose an undue burden on any public improvements, facilities, utilities and services. Approval of a conditional use permit may be conditioned upon the provision or guarantee by the applicant of necessary public improvements, facilities, utilities, and services.

18.320.070 Additional conditions.

 These cross-references will be updated by the code reviser when we update Title 17.

- (1) Additional conditions for bed and breakfast uses in single-family residential zones are set forth in SMC 17.100.060.
- (2) Additional conditions for school uses in single-family residential zones are set forth in SMC 17.100.070.
- (3) Additional conditions for wireless communications facilities are set forth in Chapter 17.220 SMC.
- (4) Additional conditions for ball parks, athletic fields, parks, playgrounds, community centers, houses of worship and meeting halls in residential zones are set forth in SMC 17.100.050.
- (5) Additional conditions for marijuana retailers are set forth in SMC 17.100.045.

Chapter 18.330 Variances

 This chapter is based on existing SMC Chapter 17.35.

 Deleted section on fees, which is now covered by a general fee section.

18.330.010 Purpose

 Based on a portion of existing SMC 17.35.010 Purpose and applicability.

 Modified to “unnecessary AND UNUSUAL hardship.”

A variance is a mechanism by which relief may be granted from selected provisions of this title where compliance with those provisions renders an unnecessary and unusual hardship.

18.330.020 Applicability

 Based on a portion of existing SMC 17.35.010 Purpose and applicability.

Variances may be granted from the strict application of any land dimension, density, or height requirements of this title due to exceptional narrowness, shallowness, shape, or substandard size of specific parcels of property, or by reason of exceptional topographic conditions or other extraordinary situations or conditions of specific parcels of property.

18.330.040 Review process.

An application for a variance is reviewed subject to the procedures in SMC Title 18 Part 2.

18.330.050 Applicant's responsibility.

The application must set forth fully the grounds and the facts justifying the granting of the variance or administrative variance permit consistent with the decision criteria in this chapter.

18.330.060 Types of variances

i This section is based on existing SMC 17.35.070 Administrative variances.

- (1) Variances are either minor or major and are subject to the type of review shown in SMC 18.230.020.
- (2) A major variance is any variance other than a minor variance.
- (3) A minor variance is a variance that allows:
 - (a) A decrease of not more than 25% of the required width of front, side, or rear setback.
 - (b) A reduction in the minimum lot size for existing lots to eliminate the property from being declared nonconforming.
 - (c) A decrease of not more than 20% in the number of required parking spaces if the reduction would allow the preservation of trees, critical areas, buffers, or other unique topographical features.
 - (d) Allow compact parking stalls to account for up to 20% of the total number of parking stalls required on a site.
- (4) Unless otherwise specified all variances must comply with the decision criteria in 18.330.070.

18.330.070 Decision criteria.

i This section is based on existing SMC 17.35.060 Decision criteria.

- (1) To approve an application for a variance, the decisionmaker must find that strict application of this code would result in a practical difficulty or unnecessary hardship upon the owner of said property and all of the following:
 - (a) That such variance can be granted without substantial impairment of the intent, purpose, and integrity of this title and of the Comprehensive Plan of Stanwood;
 - (b) That the variance would not permit a use of land not authorized within the zoning district, increase in the volume of a building or structure, or increase the density of development beyond that permitted, as established by this code;
 - (c) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zoning district in which subject property is situated;
 - (d) That the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land; and
 - (e) All of the following conditions exist:
 - (i) That, if the owner or lessor complied with the provisions of this code, he or she would not be able to make reasonable use of his or her property;

- (ii) That the difficulties or hardships are peculiar to the property in question in contrast with those of other properties in the same district;
- (iii) That the hardship was not the result of the applicant's own action (applicant's own action must not include the purchase of the property); and
- (iv) That the hardship is not merely financial or pecuniary.

(2) The fact that property may be utilized more profitably may not be considered.

Part 4 Land Divisions

Reserved.

Part 5 Zoning & Uses

Reserved.

Part 6 Specific Use Standards

Reserved.

Part 7 Development & Design Standards

Reserved.

Part 8 Environment

Reserved.

EXHIBIT B

AMENDMENTS TO SMC TITLE 17

i Exhibit B will include amendments to Title 17 that are necessary to accommodate the new procedures described in Exhibit A.

New Chapter 17.01 Applicability is adopted to read as follows:

Chapter 17.01 Applicability

17.01.010 Migration to Unified Development Code

Regulations in SMC Title 17 are being updated and migrated to the City's new Unified Development Code in SMC Title 18. Regulations in SMC Title 17 remain in effect until repealed. Where regulations in SMC Title 17 conflict with SMC Title 18, the new regulations in SMC Title 18 control.

Chapter 17.05, Purpose and Scope, is repealed.

Chapter 17.10, Establishment of Zoning Districts, is repealed.

Chapter 17.15, Establishment of Zoning Maps, is repealed.

New section 17.20.001 is added to Chapter 17.20 to read as follows:

17.20.001 Migration to Unified Development Code

Definitions in SMC Chapter 17.20 are being migrated to SMC Chapter 18.102 in the City's new Unified Development Code. Definitions in SMC Chapter 17.20 remain in effect until repealed and apply to both Title 17 and Title 18. Where definitions in SMC Title 17 conflict with SMC Title 18, the new definitions in SMC Title 18 control for regulations in SMC Title 18.

Chapter 17.35, Variances, is repealed.

Chapter 17.40, Conditional Use Permits, is repealed.

Chapter 17.80, Permit Review Procedures, is repealed and replaced with a chapter to read as follows:

Chapter 17.80 Permit Review Procedures

17.80.010 Replaced by Unified Development Code

For regulations governing the procedures and processing of permit applications and post-issuance requirements, see SMC Title 18 Part 2.

Chapter 17.160, Enforcement and Penalties, is repealed.