

RESOLUTION NO. 136 - 96

ADOPTION OF THE
MASON COUNTY DEVELOPMENT CODE

IN THE MATTER OF:

Adopting the Mason County Development Code, which creates a new administrative procedures section of the Mason County Code and establishes the standard procedures of Mason County departments in the review of planned developments and proposed actions in the county; and

WHEREAS, the Regulatory Reform Act (ESHB 1724 and Chapter 36.70B R.C.W.) requires that counties establish a permit review process which (1) provides for the integrated and consolidated review and decision on two or more project permits relating to a proposed action; (2) combines the environmental review process, both procedural and substantive, with the procedure for project permit review; (3) provides for no more than one open record hearing and one closed record appeal on such permits; and (4) provides for the issuance of the County's final decision within 120 days after submission of a complete application; and

WHEREAS, the Act also requires that Mason County adopt such permit review process and that time frames for permit processing shall apply to project permit applications filed on or after the date of this Ordinance; and

WHEREAS, the Development Code presents in Sec. 15.09.060 the process of amending the Mason County Comprehensive Plan and the docketing of proposed amendments; and

WHEREAS, public hearings to review the Development Code were held before the Mason County Planning Commission in June 1996 and before the Mason County Shoreline Advisory Board in July 1996; and

WHEREAS, the Mason County Board of Commissioners held public hearings on November 19 and December 10, 1996 to receive comments and finalize the text of the Mason County Development Code;

NOW, THEREFORE, BE IT RESOLVED THAT:

The Mason County Board of Commissioners hereby adopts the Mason County Development Code which establishes the standard procedures of Mason County departments in the review of planned developments

and proposed actions in the county. The Mason County Board of Commissioners also adopts the annual date of June 30 as the date of deadline for the docketing of Comprehensive Plan amendments, noted in Sec. 15.09.060 A.1 of the Development Code.

DATED this 10th day of December, 1996.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

ATTEST:

Deanne L. Zeanah for
Clerk of the Board
Rebecca S. Rogers
APPROVED AS TO FORM:

[Signature]
Prosecuting Attorney

Mary J. Cady
Mary J. Cady, CHAIRPERSON

William O. Hunter
William O. Hunter,
COMMISSIONER

M. L. Faughender
Mary L. Faughender,
COMMISSIONER

TITLE 15

MASON COUNTY DEVELOPMENT CODE

Chapters:

- 15.01 INTRODUCTION
- 15.03 ADMINISTRATION
- 15.05 CONSOLIDATED APPLICATION PROCESS
- 15.07 PUBLIC NOTICE REQUIREMENTS
- 15.09 REVIEW AND APPROVAL PROCESS
- 15.11 APPEALS
- 15.13 ENFORCEMENT
- 15.15 CONSOLIDATED APPLICATION REVIEW CHARTS

CHAPTER 15.01

INTRODUCTION

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- 15.01.010 INTENT
- 15.01.020 DEFINITIONS

15.01.010 INTENT

The purpose of this Title is to combine and consolidate the application, review, and approval processes for land development in Mason County in a manner that is clear, concise, and understandable. It is further intended to comply with State Law ESHB 1724 (July 1995) and RCW 36.70B, which provides the guidelines for integrating development review and environmental review of proposed development, in coordination with approved land use plans.

Established in this Title is the standard use of the Letter of Completeness, Notice of Application, and Notice of Decision. The Decision-making body shall hold one Open Record Public Hearing to review the merits of the proposed development. Upon request, one Closed Record Appeal shall be held on decisions made. Final decision on development proposals shall be made within 120 days of the date of the Letter of Completeness, except as provided in Section 15.09.110.

15.01.020 DEFINITIONS

The following definitions shall apply to this Title:

Accessory Building: A building that is subordinate to the principal building and is incidental to the use of the principal building on the same lot.

Accessory Use: A use that is clearly subordinate to the principal use on the same lot.

Adjacent Property Owners: The persons who are owners of lots, as shown on the County Assessor records, within 300 feet, not including street rights-of-way, of the boundaries of the property which is the subject of the meeting or pending action.

Building: A structure having a roof for the shelter of persons or property.

Closed Record Appeal: An appeal to the hearing body following an open record public hearing, that is based upon the record with little or no new information allowed and only the appeal argument allowed to be heard.

Comprehensive Plan: The Mason County Comprehensive Plan, as amended.

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

Critical Areas: Areas of environmental sensitivity, which include the following areas and ecosystems: a) wetlands; b) areas with a critical recharging effect on aquifers used for potable water; c) fish and wildlife habitat conservation areas; d) frequently flooded areas; and e) geologically hazardous areas.

Date of Decision: The date on which final action occurs and from which the appeal period is calculated.

Density: The number of permitted dwelling units allowed on each acre of land or fraction thereof.

Development: Any land use permit or action regulated by Titles 6, 7, 8, 14, 16, and 17 MCC, including but not limited to construction permits, conditional use permits, variances, or subdivisions.

Development Code: The Mason County Development Code.

Effective Date: The date a final decision becomes effective.

Final Decision: The final action by the review authority or Board of County Commissioners.

CHAPTER 15.03

ADMINISTRATION

Sections:

15.03.005	PURPOSE AND APPLICABILITY
15.03.010	ROLES AND RESPONSIBILITIES
15.03.015	APPLICATION TYPES AND CLASSIFICATION
15.03.020	ADMINISTRATIVE DIRECTION
15.03.030	BOARD OF COUNTY COMMISSIONERS
15.03.040	PLANNING COMMISSION
15.03.050	SHORELINE ADVISORY BOARD
15.03.060	BUILDING CODE BOARD OF APPEALS

15.03.005 PURPOSE AND APPLICABILITY

This Chapter describes how the County will process applications for development subject to review under the following Chapters of the Mason County Code:

- | | |
|---------------------------------------|--|
| 1. Title 6 (Sanitary Code) | 4. Title 14 (Construction) |
| 2. Title 7 (Shoreline Master Program) | 5. Title 16 (Subdivision) |
| 3. Title 8 (Environmental Policy) | 6. Title 17 (Interim Resource Ordinance) |

15.03.010 ROLES AND RESPONSIBILITIES

- A. The regulation of land development is a cooperative activity including many different elected and appointed boards and County staff. The specific responsibilities of these bodies is set forth below.
- B. A developer is expected to read and understand the County Development Code and be prepared to fulfill the obligations placed on the developer by Titles 6, 7, 8, 14, 16, and 17, Mason County Code.

15.03.015 APPLICATION TYPES AND CLASSIFICATION

A. Applications for review pursuant to Chap. 15.03.005 shall be subject to a Type I, Type II, Type III, or Type IV process.

B. Unless otherwise required, where the County must approve more than one application for a given development, all applications required for the development may be submitted for review at one time. Where more than one application is submitted for a given development, and those applications are subject to different types of procedure, then all of the applications are subject to the highest-number procedure that applies to any of the applications.

C. The review authority for the application in question shall classify the application as one of the four types of procedures.

1. The act of classifying an application shall be a Type I action.
2. Questions about what procedure is appropriate shall be resolved in favor of the type providing greatest notice and opportunity to participate.
3. The review authority shall consider the following guidelines when classifying the procedure type for an application:

Lot: A fractional part of divided lands having fixed boundaries and being of sufficient area and dimension to meet the minimum requirements for width and area; the term shall include tracts or parcels.

Open Record Public Hearing: An open record hearing held by an authorized hearing body, at which evidence is presented, testimony is recorded, and decision is made, to form the local government record on the review and decision-making of the planned action.

Open Space: Any part of a lot unobstructed by buildings from the ground upward.

Party of Record: Any person who has testified at a public hearing or has submitted a written statement related to a development action and who provides the County with a complete address.

Person: Any person, firm, business, corporation, partnership of other associations or organization, marital community, municipal corporation, or governmental agency.

Planned Action: A proposed activity as defined in WAC 197-11-704, as amended.

Project: A proposal for development.

Review Authority: The Directors of Community Development, Health Services, General Services, and GHCF Staff Support; and the Fire Marshal.

Setback: The minimum distance required by a specific Title for development to be setback from the street side or rear lot lines, rights-of-way, access easements, or critical areas.

Yard: The lot area between lot lines and the building area.

- D. Applications for Preliminary Plats.
- E. Other actions requested or remanded by the County Commissioners.

The review criteria for certain of the actions are contained in Section 15.09.050, MCC.

15.03.050 SHORELINE ADVISORY BOARD

The Shoreline Advisory Board shall review and act on the following subjects:

- A. Amendments to the Mason County Shoreline Master Program.
- B. Applications for Conditional Use and Variance.
- C. Other actions requested or remanded by the County Commissioners.

The review criteria and procedures for the Shoreline Advisory Board are contained in Chapter 7, MCC.

15.03.060 BUILDING CODE BOARD OF APPEALS

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

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

The review criteria for the Building Code Board of Appeals are contained in Chapter 14, MCC.

CHAPTER 15.05

CONSOLIDATED APPLICATION PROCESS

Sections:

- 15.05.010 APPLICATION
- 15.05.020 PREAPPLICATION ACTIVITIES
- 15.05.030 CONTENTS OF APPLICATIONS
- 15.05.040 LETTER OF COMPLETENESS

15.05.010 APPLICATION

- A. The County shall consolidate development application and review in order to integrate the development permit and environmental review process, while avoiding duplication of the review processes.
- B. All applications for development permits, conditional uses, variances, and other County approvals under the Development Code shall be submitted on forms provided by the review authority. All applications shall be acknowledged by the property owner or their agent.

a. A Type I (ministerial) process involves an application that is subject to clear, objective and nondiscretionary standards or standards that require an exercise of professional judgement about technical issues.

b. A Type II (administrative) process involves an application that is subject to objective and subjective standards that require the exercise of limited discretion about nontechnical issues and about which there may be a limited public interest.

c. A Type III (quasi-judicial) process involves an application for relatively few parcels and ownerships. It is subject to standards that require the exercise of substantial discretion and about which there may be a broad public interest.

d. A Type IV (legislative) process involves the creation, implementation, or amendment of policy or law by ordinance. The subject of a Type IV process involves a relatively large geographic area containing many property owners, and a Type IV application should follow the format detailed in Chap. 15.09.060.

15.03.020 ADMINISTRATIVE DIRECTION

Each Director shall review and act on the following:

- A. Authority: The Directors of Community Development, Health Services, General Services, and GHCF Staff Support; and the Fire Marshall are responsible for the administration of Titles 6, 7, 8, 14, 16, and 17 of the Mason County Code.
- B. Administrative Interpretation: Upon request or as determined necessary, the review authority shall interpret the meaning or application of the provisions of said titles and issue a written administrative interpretation within 30 days. Requests for interpretation shall be written and shall concisely identify the issue and desired interpretation.
- C. Administrative Approvals: Administrative approvals set forth in Sections 15.09.020, 15.09.030, and 15.09.040.

15.03.030 BOARD OF COUNTY COMMISSIONERS

In addition to its legislative responsibility, the Board of County Commissioners shall review and act on the following subjects:

- A. Recommendations of the Planning Commission and Shoreline Advisory Board.
- B. Applications for Substantial Development Permits (Mason County Shoreline Master Program).
- C. Appeal of administrative interpretations.
- D. Appeal of administrative approvals as set forth in Section 15.09.020, 15.09.030, and 15.09.040.
- E. Appeal of a Determination of Significance under Title 8 (Environmental Policy).
- F. Recommendation to revoke or modify a permit or approval per Section 15.13.070.

15.03.040 PLANNING COMMISSION

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

- A. Amendments to the Comprehensive Plan and development regulations per RCW 36.70A.030.
- B. Amendments to the Subdivision Code, Title 16.
- C. Amendments to the Environmental Policy (Title 8) and Interim Resource Ordinance (Title 17).

CHAPTER 15.07

PUBLIC NOTICE REQUIREMENTS

Sections:

- 15.07.010 NOTICE OF DEVELOPMENT APPLICATION
- 15.07.020 NOTICE OF ADMINISTRATIVE APPROVALS
- 15.07.030 NOTICE OF PUBLIC HEARING
- 15.07.040 NOTICE OF APPEAL HEARING
- 15.07.050 NOTICE OF DECISION

15.07.010 NOTICE OF DEVELOPMENT APPLICATION

- A. Within fourteen (14) days of issuing a letter of completeness under Chapter 15.05, the County shall issue a Notice of Development Application. The notice shall include, but not be limited to, the following:
1. The name of the applicant.
 2. Date of application.
 3. The date of the letter of completeness.
 4. The location of the project.
 5. A project description.
 6. The requested approvals, actions, and/or required studies.
 7. A public comment period not less than fourteen (14) nor more than thirty (30) days.
 8. Identification of existing environmental documents.
 9. A County staff contact and phone number.
 10. The date, time, and place of a public meeting, or public hearing if one has been scheduled.
 11. A statement that the decision on the application will be made within 120 days of the date of the letter of completeness.
- B. The Notice of Development Application shall be posted on the subject property and sent to adjacent property owners for Type II and III permits.
- C. The Notice of Development Application shall be issued prior to and is not a substitute for required notice of a public meeting or open record public hearing.

15.07.020 NOTICE OF ADMINISTRATIVE FINAL DECISIONS

Notice of administrative final decisions subject to notice under Section 15.09.020 shall be made as follows:

- A. **No Notification:** Type I permits and decisions and Type II permits involving SEPA review (threshold determination will be posted on property).
- B. **Notification of Administrative Final Decision:** The review authority shall notify the adjacent property owners of his/her intent to grant a decision. Notification shall be made by mail only. The notice shall include:
1. A description of the administrative final decision, including any conditions of approval.

15.05.020 PREAPPLICATION ACTIVITIES

- A. **Informal** Applicants for development are encouraged to participate in an informal discussion prior to the formal preapplication meeting. The purpose of the meeting is to discuss, in general terms, the proposed development, County development standards, and required permits and approval process.
- B. **Formal** Every person proposing a development in the County, with exception of Type I permits and decisions and some Type II permits and decisions, shall attend a preapplication meeting. The purpose of the meeting is to discuss the nature of the proposed development, application and permit requirements, fees, review process and schedule, applicable plans, policies and regulations. In order to expedite development review, the County shall invite all affected departments, agencies and/or special districts to the preapplication meeting, with the discretion of the review authority.

15.05.030 CONTENT OF APPLICATIONS

- A. All applications for approval under Titles 6, 7, 8, 14, 16, and 17 shall include the information specified in the applicable title. The review authority may require such additional information as reasonably necessary to fully evaluate the proposal.
- B. The applicant shall apply for all permits identified in the preapplication meeting.

15.05.040 LETTER OF COMPLETENESS OF APPLICATION

- A. Within twenty-eight (28) days of receiving a date stamped application, the County shall review the application and as set forth below, provide applicants with a written determination that the application is complete or incomplete.
- B. A project application shall be declared complete only when it contains all of the following materials:
 - 1. A fully completed, signed, and acknowledged development application and all applicable review fees.
 - 2. A fully completed, signed, and acknowledged environmental checklist for projects subject to review under the State Environmental Policy Act (Title 8).
 - 3. The information specified for the desired project in the appropriate chapters of the Mason County Code and as identified in Section 15.05.030.
 - 4. Any supplemental information or special studies identified by the review authority.
- C. For applications determined to be incomplete, the County shall identify, in writing, the specific requirements or information necessary to constitute a complete application. Upon submittal of the additional information, the County shall, within fourteen (14) days, issue a letter of completeness or identify what additional information is required.

CHAPTER 15.09

REVIEW AND APPROVAL PROCESS

Sections:

15.09.010	CONSOLIDATED PERMIT REVIEW
15.09.020	ENVIRONMENTAL REVIEW
15.09.030	ADMINISTRATIVE APPROVALS WITHOUT NOTICE
15.09.040	ADMINISTRATIVE APPROVALS SUBJECT TO NOTICE
15.09.050	TYPE III REVIEW AND RECOMMENDATION
15.09.060	TYPE IV REVIEW AND RECOMMENDATION
15.09.070	COUNTY COMMISSIONERS ACTION
15.09.080	PROCEDURES FOR PUBLIC HEARINGS
15.09.090	REMAND
15.09.100	FINAL DECISION

15.09.010 CONSOLIDATED PERMIT REVIEW

When a proposed action involves two or more project permits (for example, a Shoreline Conditional Use Permit, Mason Environmental Permit, and commercial project review), the applicant may choose to have all or a portion of the proposal reviewed under the consolidated permit review process. When the consolidated permit review is selected, county staff shall include all project permits under review when issuing the determination of application completeness, notice of application, notice of one open record public hearing (when needed), and notice of final decision.

15.09.020 ENVIRONMENTAL REVIEW

- A. Developments and planned actions subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed in accordance with the policies and procedures contained in Chapter 8, MCC.
- B. SEPA review shall be conducted concurrently with development project review. The following are exempt from concurrent review:
1. Projects categorically exempt from SEPA.
 2. Components of previously completed planned actions, to the extent permitted by law and consistent with the EIS for the planned action.

15.09.030 ADMINISTRATIVE APPROVALS WITHOUT NOTICE

- A. The review authority may approve, approve with conditions, or deny the following without notice:
1. Type I decisions.
 2. Extension of time for approval.
 3. Minor amendments or modifications to approved developments or permits. Minor amendments are those which may affect the precise dimensions or location of buildings, accessory structures and driveways, but do not affect: (i)

2. A place where further information may be obtained.
 3. A statement that final decision will be granted unless an appeal requesting a public hearing is filed with the County Commissioners' office within fourteen (14) days of the date of the notice.
- C. SEPA environmental review: Notification shall follow the procedures contained in Chapter 8, MCC and noted in Section 15.09.020 of this Chapter.

15.07.030 NOTICE OF PUBLIC MEETING

Notice of a public meeting for all development applications and appeals shall be given as follows:

- A. Time of Notices: Except as otherwise required, public notification of meetings, hearings, and pending actions under Titles 6, 7, 8, 14, 16, and 17, MCC, shall be made by:
 1. Publication at least ten (10) days before the date of a public meeting, hearing, or pending action in the official newspaper if one has been designated or a newspaper of general circulation in the County; and
 2. Mailing at least ten (10) days before the date of a public meeting, hearing, or pending action to all adjacent property owners of the boundaries of the property which is the subject of the meeting or pending action. Addressed, pre-stamped envelopes shall be provided by the applicant; and
 3. Posting at least ten (10) days before the meeting, hearing, or pending action in one public place (post office) and at least two notices on the subject property.
- B. Content of Notice: The public notice shall include a general description of the proposed project, action to be taken, a non-legal description of the property or a vicinity map or sketch, the time, date and place of the public hearing and the place where further information may be obtained.
- C. Continuations: If for any reason, a meeting or hearing on a pending action cannot be completed on the date set in the public notice, the meeting or hearing may be continued to a date certain and no further notice under this section is required.

15.07.040 NOTICE OF APPEAL HEARINGS

In addition to the posting and publication requirements of Section 15.07.030, notice of appeal hearings before the hearing body shall be as follows:

- A. For administrative approvals, notice shall be mailed to parties of record from the permit review.
- B. For hearing body findings, mailing to parties of record from the hearing body public hearing.

15.07.050 NOTICE OF DECISION

A written notice for all final decisions shall be sent to the applicant, all parties of record, and the County Assessor's Office. This notice shall include the statement of threshold determination (RCW 43.21C) and the procedures of administrative appeal. For development applications requiring Shoreline Advisory Board or Planning Commission review and County Commissioners' approval, the notice shall be the signed Findings and Conclusions.

overall project character, (ii) increase the number of lots, dwelling units, or density or (iii) decrease the quality or amount of open space.

4. Adjustment to yard setbacks.
- B. The review authority's decisions under this section shall be final on the date issued.

15.09.040 ADMINISTRATIVE APPROVALS SUBJECT TO NOTICE

A. The review authority may grant approval or approval with conditions, or may deny Type II decisions (such as Short Subdivisions or Mason Environmental Permits), subject to the notice and appeal requirements of this Chapter.

B. Final Administrative Approvals: Approvals under this section shall become effective subject to the following:

1. If no appeal is submitted, the approval becomes effective at the expiration of the 15-day notice period.
2. If a written notice of appeal is received within the specified time, the matter will be referred to the County Commissioners as an appeal for an open record public hearing.

15.09.050 TYPE III DECISION REVIEW AND RECOMMENDATION

1.0 Mason County Shoreline Master Program.

Staff reports, public hearings, and recommendations are made to the Shoreline Advisory Board (conditional use and variance shoreline permits) or County Commissioners (substantial development permits). Requirements shall follow the guidelines in Section 15.09.030 (2.0) and shall use the policies, regulations and criteria of the Mason County Shoreline Master Program.

2.0 Other Type III decisions.

A. Staff Report. The review authority shall prepare a staff report on the proposed development or action summarizing the comments and recommendations of County departments, affected agencies and special districts, and evaluating the development's consistency with the County's Development Code, adopted plans and regulations. The staff report shall include findings, conclusions and proposed recommendations for disposition of the development application.

B. Public Meeting. The Planning Commission shall conduct a public meeting on development proposals for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the County's Development Code, adopted plans and regulations. The meeting shall identify issues upon which the County Commissioners shall hear at their decision-making public hearing. Notice of the Planning Commission meeting shall be in accordance with Section 15.07.030.

C. Required Review: The Planning Commission shall review a proposed development according to the following criteria:

1. The development is consistent with the Comprehensive Plan and meets the requirements and intent of the Mason County Code, especially Title 6, 8, 16, and 17.

2. The development makes adequate provisions for open space, drainage ways, streets, other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds.
3. The development adequately mitigates impacts identified as environmentally sensitive areas under Title 8 and 17, MCC.
4. The development is beneficial to the public health, safety and welfare and is in the public interest.
5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the Comprehensive Plan. If the development results in a level of service lower than those set forth in the Comprehensive Plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six (6) years of approval of the development.
6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development, and are proportional to the impacts created by the development.

D. Findings. Upon reviewing a development proposal or action, the Planning Commission shall prepare and adopt a motion setting forth its findings of issues to be addressed in the public hearing and promptly forward it to the County Commissioners for consideration, as required by the timelines stated in the relevant Title of the Mason County Code.

15.09.060 TYPE IV DECISION REVIEW AND RECOMMENDATION

A. The process for amending the Mason County Comprehensive Plan and implementing development regulations (hereinafter "annual amendment process") shall follow the steps below. Generally, the county will consider both the plan and regulation amendments together, and it will consider them only one time each year.

1. Publish notice of the deadline for proposed plan or development regulation amendment which will be placed on the docket for consideration. Amendments must be considered at least annually. Comprehensive plan amendments can not be adopted more than once a year.

2. The Department of Community Development (DCD) prepares a Comprehensive Plan Amendment Report for presentation to the Planning Commission. The report will include all proposals received, the initial analysis and cumulative impact review, and the initial SEPA determination.

3. The County transmits the proposals to the State Department of Community, Trade, and Economic Development and other state agencies.

4. After presentation of the report to the Planning Commission, the Commission schedules a public hearing and may schedule workshops. (In the case of amendments of

special interest to one part of the county, a workshop or hearing should be scheduled in that area.) The public hearing should be not less than 60 days after the official transmittal is provided to the state.

5. The DCD, acting for the Commission, releases public notice of workshops and hearings.

6. Planning Commission holds public hearing and optional workshops, and formulate and transmit its findings and recommendations to the Board of Commissioners.

7. The Board schedules and releases notice of public hearings and workshops as desired.

8. Workshops and public hearings held by the Board of Commissioners.

9. The Board meets to consider and take appropriate action on the amendments.

10. Any resulting amendments are transmitted to the state Department of Community, Trade, and Economic Development and other state agencies, and public notice of adoption is published.

B. Exceptions to the annual amendment process.

In some cases amendments can be made to the Comprehensive Plan outside of the annual amendment process described herein:

1. When an emergency exists, the annual amendment process will not be followed. The process for the planning review is established in RCW 36.70A.390. The review process for SEPA (WAC 197-11-880) has already been adopted by the county in Ordinance 99-84, section 9.1.

2. When the amendments are intended to resolve an appeal to the Growth Management Hearings Board, then the amendment is not limited to one time a year and will need to be abbreviated because the time allowed in Hearings Board cases is very limited. The process will be adjusted as necessary within the constraints of the Growth Management Act and SEPA.

3. The initial adoption of a subarea plan is not required to be part of the annual amendment process and is not limited to once per year. The process will be the same as required for the annual plan amendment, except that step a. will be as follows:

a. Establish a sub-area committee or a series of subarea workshops. Public notice will be published of the workshops or meetings of the committee in order to encourage public participation and comment.

4. The adoption of a shoreline master program amendment shall not follow the annual amendment process, but shall be done under the procedures of Chapter 90.58 RCW.

5. Amendments can be made more than once a year if they are restricted to changes in the development regulations consistent with the existing comprehensive plan. The process for amendment is the same as specified for the annual amendment process.

15.09.070 COUNTY COMMISSIONERS ACTIONS

A. Actions. Upon receiving a findings from the Planning Commission, Shoreline Advisory Board, or notice of any other matter requiring the County Commissioners' attention, the County Commissioners shall hold an open record public hearing and make a decision on the following matters:

i. Make a decision on a Shoreline Advisory Board or Planning Commission recommendation.

- ii. Appeal of administrative interpretations.
 - iii. Appeal of administrative decisions of type I and II permits.
 - iv. Appeal of determinations of significance.
 - v. Other matters not prohibited by law.
- B. Decisions. The County Commissioners shall make its decision by motion, resolution, or ordinance, as appropriate, following an open record public hearing and shall include one of the following actions:
- i. Approve as recommended.
 - ii. Approve with additional conditions.
 - iii. Modify, with or without the applicant's concurrence, provided that the modifications do not:
 - a. Enlarge the area or scope of the project.
 - b. Increase the density or proposed building size.
 - c. Significantly increase adverse environmental impacts as determined by the responsible official.
 - iv. Deny (reapplication or resubmittal is permitted).
 - v. Deny with prejudice (reapplication or resubmittal is not allowed for one year).
 - vi. Remand for further proceedings and/or evidentiary hearing in accordance with Section 15.09.090.
2. A County Commissioners' decision following an open record appeal hearing shall include one of the following actions:
- i. Grant the appeal, in whole or in part.
 - ii. Grant the appeal with conditions, in whole or in part.
 - iii. Deny the appeal, in whole or in part.
 - iv. Remand for further proceedings and/or evidentiary hearing in accordance with Section 15.09.090.

15.09.080 PROCEDURES FOR OPEN RECORD PUBLIC HEARINGS

Public hearings shall be conducted in accordance with the hearing body's rules of procedure and shall serve to create or supplement an evidentiary record upon which the body will base its decision. The Chair shall open the public hearing and, in general, observe the following sequence of events:

- A. Staff presentation, including submittal of any administrative reports. Members of the hearing body may ask questions of the staff.
- B. Applicant presentation, including submittal of any materials. Members of the hearing body may ask questions of the applicant.
- C. Testimony or comments by the public germane to the matter. Questions directed to the staff or the applicant shall be posed by the Chair at its discretion.
- D. Rebuttal, response or clarifying statements by the staff and the applicant.
- E. The evidentiary portion of the public hearing shall be closed and the hearing body shall deliberate on the matter before it.
- F. The hearing body shall present a written statement of findings and conclusions upon issuing its decision.

15.09.090 REMAND

In the event the County Commissioners determines that the public hearing record or record on appeal is insufficient or otherwise flawed, the Commissioners may remand the matter back to the hearing body or administrative department to correct the deficiencies. The Commissioners shall specify the items or issues to be considered, the time frame for completing the additional work, and the date of the continuation of the open record public hearing. The Commissioners may hold a public hearing on a closed record appeal only for the limited purposes identified in RCW 34.05.562(1).

15.09.100 FINAL DECISION

- A. Time. The final decision on a development proposal shall be made within 120 days from the date of the letter of completeness. Exceptions to this include:
1. Amendments to the Comprehensive Plan or Development Code.
 2. Any time required to correct plans, perform studies or provide additional information, provided that within 14 days of receiving the requested additional information, the Director shall determine whether the information is adequate to resume the project review.
 3. Substantial project revisions made or requested by an applicant, in which case the 120 days will be calculated from the time that the County determines the revised application to be complete.
 4. All time required for the administrative appeal of a Determination of Significance.
 5. All time required for the preparation and review of an environmental impact statement, as agreed upon by the County and the applicant.
 6. Projects involving the siting of an essential public facility.
 7. An extension of time mutually agreed upon by the County and the applicant.
 8. All time required to obtain a variance.
 9. Any remand to the hearing body.
- B. Effective Date. The final decision of the County Commissioners or hearing body shall be effective on the date stated in the decision, motion, resolution, or ordinance, provided that the date from which appeal periods shall be calculated shall be the date the County Commissioners or hearing body takes action on the motion, resolution, or ordinance.

CHAPTER 15.11

APPEALS

Sections:

- | | |
|-----------|--|
| 15.11.010 | APPEAL OF ADMINISTRATIVE INTERPRETATIONS AND APPROVALS |
| 15.11.020 | APPEAL TO THE COUNTY COMMISSIONERS |
| 15.11.030 | APPEAL TO STATE REVIEW BOARDS |
| 15.11.040 | JUDICIAL APPEAL |

15.11.010 APPEAL OF ADMINISTRATIVE INTERPRETATIONS AND APPROVALS

Administrative interpretations and administrative approvals may be appealed, by applicants or parties of record, to the following hearing body, based upon by which Chapter of the Mason County Code an application for development is reviewed:

Board of Health: Chapter 6 (Sanitary Code).

Board of County Commissioners: Chapters 7 (Shoreline Master Program), 8 (Environmental Policy), 16 (Subdivision), and 17 (Interim Resource).

Board of Appeals: Chapter 14 (Construction).

15.11.020 APPEAL TO THE COUNTY COMMISSIONERS

- A. Filing. Every appeal to the County Commissioners shall be filed with the Clerk of the Commissioners within fourteen (14) days after the date of the recommendation or decision of the matter being appealed.
- B. Contents. The application of appeal shall contain a concise statement identifying:
1. The decision being appealed.
 2. The name and address of the appellant and his/her interest(s) in the matter.
 3. The specific reasons why the appellant believes the decision to be wrong. The appellant shall bear the burden of proving the decision was wrong.
 4. The desired outcome or changes to the decision.
 5. The appeals fee.
- C. Procedure. The appeal shall be held as an open record public hearing before the hearing body and comply with the standards of Sec. 15.09.080.

15.11.030 APPEAL TO STATE REVIEW BOARDS

The appeal of the final decision of the County Commissioners or Board of Health may be filed to the appropriate state review board and is subject to the appeal processes of the review board (notification, review, hearing, and decision). The State Environmental Hearings Office processes appeals of shoreline permits, conditional uses, and variances; the State Department of Health processes appeals of public health and air-water quality issues.

15.11.040 JUDICIAL APPEAL

- A. Appeals from the final decision of the County Commissioners or Board of Appeals, or other County board or body involving Titles 6, 7, 8, 14, 16, and 17, MCC, and for which all other appeals specifically authorized have been timely exhausted, shall be made to Mason County Superior Court within twenty-one (21) days of the date the decision or action became final, unless another time period is established by state law or local ordinance.
- B. Notice of the appeal and any other pleadings required to be filed with the court shall be served on the County Commissioners or hearing body, and Prosecuting Attorney within the applicable time period. This requirement is jurisdictional.
- C. The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant.

CHAPTER 15.13

ENFORCEMENT

Sections:

15.13.005	SEVERABILITY
15.13.010	ENFORCING OFFICIAL; AUTHORITY
15.13.020	GENERAL PENALTY
15.13.030	APPLICATION
15.13.040	CIVIL REGULATORY ORDER
15.13.050	CIVIL FINES
15.13.060	REVIEW OF APPROVED PERMITS
15.13.070	REVOCAION OR MODIFICATION OF PERMITS AND APPROVALS

15.13.005 SEVERABILITY

This Ordinance shall be governed by the laws of the State of Washington. In the event that any portion or section of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected and shall remain in full force and effect.

15.13.010 ENFORCING OFFICIAL; AUTHORITY

The review authority shall be responsible for enforcing Titles 6, 7, 8, 14, 16, and 17, MCC, and may adopt administrative rules to meet that responsibility. The review authority may delegate enforcement responsibility to the Director of Public Works, General Services, or Health Services; or Fire Marshall, as appropriate.

15.13.020 GENERAL PENALTY

Compliance with the requirements of Titles 6, 7, 8, 14, 16, and 17, MCC, shall be mandatory. The general penalties and remedies established in Title 1.04, Mason County Code, for such violations shall apply to any violation of those titles. The enforcement actions authorized under this chapter shall be supplemental to those general penalties and remedies.

15.13.030 APPLICATION

- A. Actions under this chapter may be taken in any order deemed necessary or desirable by the review authority to achieve the purpose of this chapter or of the Development Code.
- B. Proof of a violation of a development permit or approval shall constitute prima facie evidence that the violation is that of the applicant and/or owner of the property upon which the violation exists. An enforcement action under this chapter shall not relieve or prevent enforcement against any other responsible person.

15.13.040 CIVIL REGULATORY ORDER

- A. Authority. A civil regulatory order may be issued and served upon a person if any activity by or at the direction of that person is, has been, or may be taken in violation of the Development Code.
- B. Notice. A civil regulatory order shall be deemed served and shall be effective when posted at the location of the violation and/or delivered to any suitable person at the location and/or delivered by mail or otherwise to the owner or other person having responsibility for the location.
- C. Content. A civil regulatory order shall set forth:
 - 1. The name and address of the person to whom it is directed.
 - 2. The location and specific description of the violation.
 - 3. A notice that the order is effective immediately upon posting at the site and/or receipt by the person to whom it is directed.
 - 4. An order that the violation immediately cease, or that the potential violation be avoided.
 - 5. An order that the person stop work until correction and/or remediation of the violation as specified in the order.
 - 6. A specific description of the actions required to correct, remedy, or avoid the violation, including a time limit to complete such actions.
 - 7. A notice that failure to comply with the regulatory order may result in further enforcement actions, including civil fines and criminal penalties.
- D. Remedial Action. The review authority may require any action reasonably calculated to correct or avoid the violation, including but not limited to replacement, repair, supplementation, revegetation, or restoration.
- E. Appeal: A civil regulatory order may be appealed in accordance with Title 1.04, Mason County Code.

15.13.050 CIVIL FINES

- A. Authority. A person who violates any provision of the Development Code, or who fails to obtain any necessary permit, or who fails to comply with a civil regulatory order shall be subject to a civil fine.
- B. Amount. The civil fine assessed shall not exceed one thousand dollars (\$1,000.00) for each violation. Each separate day, event, action or occurrence shall constitute a separate violation.
- C. Notice. A civil fine shall be imposed by a written notice, and shall be effective when served or posted as set forth in 15.13.030(B). The notice shall describe the date, nature, location, and act(s) comprising the violation, the amount of the fine, and the authority under which the fine has been issued.
- D. Collection. Civil fines shall be immediately due and payable upon issuance and receipt of the notice. The review authority may issue a regulatory order stopping work until such fine is paid. If remission or appeal of the fine is sought, the fine shall be due and payable upon issuance of a final decision. If a fine remains unpaid 30 days after it becomes due and payable, the review authority may take actions necessary to recover the fine. Civil fines shall be paid into the County's general fund.

- E. Application for Remission. Any person incurring a civil fine may, within ten days of receipt of the notice, apply in writing to the review authority for remission of the fine. The review authority shall issue a decision on the application within ten days. A fine may be remitted only upon a demonstration of extraordinary circumstances.
- F. Appeal. A civil fine may be appealed to the County Commissioners as set forth in Title 1.04, Mason County Code.

15.13.060 REVIEW OF APPROVED PERMITS

- A. Review: Any approval or permit issued under the authority of the Development Code may be reviewed for compliance with the requirements of the Development Code, or to determine if the action is creating a nuisance or hazard, has been abandoned, or the approval or permit was obtained by fraud or deception.
- B. Review Authority Investigation: Upon receipt of information indicating the need for, or upon receiving a request for review of permit or approval, the review authority shall investigate the matter and take one or more of the following actions:
 - 1. Notify the property owner or permit holder of the investigation; and/or
 - 2. Issue a civil regulatory order and/or civil fine and/or recommend revocation or modification of the permit or approval; and/or
 - 3. Refer the matter to the County Prosecutor; and/or
 - 4. Refer the matter to the County Commissioners with a recommendation for action.

15.13.070 REVOCATION OR MODIFICATION OF PERMITS AND APPROVALS [[HANDLED BY APPROPRIATE DEPARTMENTS]]

- A. Upon receiving a review authority's recommendation for revocation or modification of a permit or approval, the County Commissioners shall review the matter at a public hearing, subject to the notice of public hearing requirements (Sec. 15.07.030). Upon a finding that the activity does not comply with the conditions of approval or the provisions of the Development Code, or creates a nuisance or hazard, the County Commissioners may delete, modify or impose such conditions on the permit or approval it deems sufficient to remedy the deficiencies. If the Commissioners find no reasonable conditions which would remedy the deficiencies, the permit or approval shall be revoked and the activity allowed by the permit or approval shall cease.
- B. Reapplication. If a permit or approval is revoked for fraud or deception, no similar application shall be accepted for a period of one year from the date of final action and appeal, if any. If a permit or approval is revoked for any other reason, another application may be submitted subject to all of the requirements of the Development Code.

GUIDELINE TO DEVELOPMENT CODE DECISIONS AND PERMITS

	DECISION TYPE			
PERMIT ENTRY POINT	TYPE I ministerial	TYPE II administrative	TYPE III quasi-judicial	TYPE IV legislative
BUILDING III (building dept., fire marshal, and environmental health dept.)	building permit w/o SEPA building variance land modification permit w/o SEPA fire protection certificate septic system permit w/o MEP water adequacy well construction	SEPA environmental review for building permit and land modification permit MEP review for septic system permit	appeal of type I/II decisions	
BUILDING I (community development)	declaration of parcel combination / separation boundary line adjustment	commercial/industrial development Mason Environmental Permit short plat large lot subdivision	appeal of type I/II decisions preliminary plat final plat large lot subdivision Mason Conditional Environmental Permit shoreline development permit mobile home - RV park permit	county comprehensive plan development regulations

**TYPE II DECISION PROCESS
** COMMERCIAL DEVELOPMENT ****

CURRENT PROCESS

application
submittal

additional information
as needed

threshold determination
as necessary

review by:
DCD- parking/setbacks
BLD- structural/energy
FM- fire protection
DPW- stormwater/erosion control
EH- septic/water supply

DECISION BY DIRECTOR

APPEAL to BCC

BCC: Board of County Commissioners

PROPOSED PROCESS

informal pre-submission

formal pre-application conference with
DCD, BLD, FM, DPW, AND EH

application
submittal

additional information
when needed

letter of
completeness

notice of application and
threshold determination as necessary

review by:
DCD- parking/setbacks
BLD- structural/energy
FM- fire protection
DPW- stormwater/erosion control
EH- septic/water supply

DECISION BY DIRECTOR

notice of decision

CLOSED RECORD
APPEAL to BCC

**TYPE III DECISION PROCESS
** SHORELINE CONDITIONAL USE PERMIT ****

CURRENT PROCESS

PROPOSED PROCESS

application
submittal

informal
presubmission

additional
information as needed

formal
pre-application
conference

notice of application

application
submittal

threshold determination

additional
information needed

staff report

letter of
completeness

SAB Public Hearing
and recommendation

notice of application and
threshold determination

BCC Public Hearing
and decision

staff report

APPEAL to DOE
and Hearings Board

SAB Public meeting to raise issues for public
hearing

BCC OPEN RECORD PUBLIC HEARING
and decision

NOTICE OF DECISION

CLOSED RECORD APPEAL to Environ.
Hearings Board

**TYPE III DECISION PROCESS
** MOBILE HOME - RV PARK PERMIT ****

CURRENT PROCESS

PROPOSED PROCESS

application
submittal

informal pre-submission

additional
information as needed

formal pre-application conference with
DCD, BLD, FM, DPW, AND EH

application submittal

notice of application

additional information needed

threshold determination

letter of completeness

staff report

notice of application and
threshold determination

PC Public Hearing
and recommendation

staff report based on review by:

DCD- parking/setbacks

BLD- structural/energy

FM- fire protection

DPW- stormwater/erosion control

EH- septic/water supply

BCC Public Hearing
and decision

PC Public meeting to raise issues for public
hearing

APPEAL to SC

BCC OPEN RECORD PUBLIC HEARING
and decision

NOTICE OF DECISION

CLOSED RECORD APPEAL to SC

BCC: Board of County Commissioners

PC: Planning Commission

SC: Superior Court