

## Chapter 14.06

### PERMIT PROCEDURES

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#### **14.06.010 Intent.**

The intent of this Chapter is to combine and consolidate the application, review, and approval processes for development permits as defined by Chapter 14.04 SCC. In addition, this Chapter is intended to establish roles and responsibilities of the Administrative Official, Hearing Examiner, Planning Commission, and Board of County Commissioners relating to development permits. It is further intended to comply with State guidelines for combining and expediting development review and integrating environmental review. Procedures for review and approval of Comprehensive Plans, subarea plans, functional plans, development regulations, open space, open space current use applications, and amendments thereto shall be governed by the provisions of Chapter 14.08 SCC and not this Chapter. For development permits that require or propose an amendment to a plan or development regulation, the amendment shall first be processed pursuant to the requirements of Chapter 14.08 SCC and, if/once that amendment has been approved, the balance of the development permit decisions shall be processed pursuant to the provisions of this Chapter. Procedures for review of interpretations of the provisions of the adopted building codes and fire codes, as may be amended, shall be governed by Chapter 15.16 SCC and not this Chapter; provided, that the County's decision to issue, to condition or to deny a building permit pursuant to any of the requirements of SCC Title 14 shall be governed by this Chapter. (Ord. 17938 Attch. F (part), 2000)

#### **14.06.020 Purpose.**

This Chapter describes how the County will process applications for development permits subject to review under SCC Title 14. (Ord. 17938 Attch. F (part), 2000)

**14.06.030 Foundation of project review.**

- (1) Fundamental land use planning choices made in adopted Comprehensive Plans and development regulations shall serve as the foundation for development permit review. Development permit review shall not be used for comprehensive planning purposes. Development permits shall be reviewed for consistency, conformity and compliance with applicable adopted plans and development relations.
- (2) During development permit review, the County shall not re-examine alternatives to or hear appeals from fundamental land use planning choices made in the Comprehensive Plan or adopted development relations, except for issues of plan or code interpretation. If during development permit review deficiencies are identified in the Comprehensive Plan or in development regulations, development permit review shall continue under existing plans and regulations and any identified deficiencies shall be docketed for consideration on at least an annual basis, consistent with the provisions of Chapter 14.08 SCC. (Ord. 17938 Attch. F (part), 2000)

**14.06.040 Administration and interpretation.**

- (1) Authority. The Administrative Official is responsible for administering the provisions of SCC Title 14, provided that primary responsibility for some administrative decisions may rest with other department heads, such as the Public Works Director or the Assessor. In each case, the relevant Chapter of SCC Title 14 shall specify the particular department head that is responsible for the administrative decision.
- (2) Counter Information. From time to time, the Administrative Official or other department staff may respond to inquiries from members of the public regarding the applicability and interpretation of various code provisions prior to, or outside of the context of a specific development permit application. Unless an official interpretation is requested in conjunction with a particular development permit application, as described in Subsection (3) of this Section, these general counter requests for information shall be provided as a public convenience only, and shall not be processed or subject to appeal as a Level I decision pursuant to the provisions of this Chapter.
- (3) Administrative Interpretations—Official.
  - (a) Generally. Administrative interpretations are decisions by the Administrative Official as to the meaning, application, or intent of any of the provisions of SCC Title 14. Administrative interpretations are also available for questions regarding a map boundary or an alleged scrivener's mapping error that does not involve reconsideration or rebalancing of designation criteria. Procedural provisions and statements of policy shall not be subject to this process. A decision by the Administrative Official that the interpretation request is not subject to this process shall be final, does not require a Notice of Decision, and not subject to appeal.
  - (b) Decision Criteria. The Administrative Official shall research the original intent of the language or provision. The Administrative Official shall also consider relevant provisions of the Comprehensive Plan or other applicable policy documents.
  - (c) Process. Requests for administrative interpretation shall be written and shall concisely identify the issue and desired interpretation. Notice of Decision on interpretations shall be issued within 45 days from the date of receipt.
  - (d) Appeals. Appeals of administrative interpretations shall be available, and shall follow the process of SCC 14.06.110(7) through 14.06.110(14), as presently codified or later amended. Standing to bring an appeal shall be limited to aggrieved parties.
- (4) Administrative Decision. Administrative decisions are decisions regarding the applicability of a specific Code section in situations where typically no other discretionary review is needed. Examples include reductions of required landscape buffers, reductions of required parking or reduction of setbacks. Administrative decisions shall be processed as a Level I decision.
- (5) Lot Certification. A lot certification, pursuant to SCC 14.06.045, is an administrative review and determination that is required as part of a complete application for a development permit, as described in SCC 14.06.090, for those development permits listed in SCC 14.06.045(2). Because a lot certification is not a development permit application, but instead is required as part of certain development permit applications, lot certifications shall not require a letter of completeness (SCC 14.06.100), a Notice of Development Application and public comment period (SCC 14.06.150), nor a Notice of Decision (SCC 14.06.200). A lot certification determination may be appealed to the Hearing Examiner by the property owner, or by any other aggrieved party with standing pursuant to the same appeal procedures as those described for a Level I decision pursuant to SCC 14.06.110(7). The Notice of Appeal of a lot certification determination shall include a statement and such evidence as is necessary for the County to determine that the party appealing is aggrieved by the determination and, therefore, has standing to bring the appeal. Because a

Notice of Development Application is not required for a lot certification determination, appeals are not limited to parties of record, as defined by Chapter 14.04 SCC. (Ord. O20070009 (part); Ord. O20040017 (part); Ord. 17938 Attch. F (part), 2000)

**14.06.045 Lot certification.**

- (1) Lot certification shall be the administrative review process completed to determine whether a lot is legally created and, therefore, eligible for conveyance and whether or not the lot will be considered for development permits, as follows:
  - (a) Conveyance. The County shall determine whether a lot was legally created. A legally created lot is a lot that meets the definition of lot of record, as defined in SCC 14.04.020, or a lot owned by an innocent purchaser who has met the requirements described in SCC 14.18.000(9) and RCW 58.17.210 for the lot in question. A lot of record may be conveyed individually without violating the provisions of Chapter 58.17 RCW, but may or may not be eligible for development permits, pursuant to SCC 14.16.850(4). Parcels not meeting the definition of lot of record may not be able to be conveyed without violating Chapter 58.17 RCW and will not be considered for development purposes.
  - (b) Development. If a lot of record is certified under Subsection (1)(a) of this Section, the County shall also determine whether or not the lot of record will be considered for development permits. To be considered for development permits, the lot of record must either meet the minimum lot size requirements of the zoning district in which it is located, or, if the lot of record does not meet the minimum lot size requirements of the zoning district in which it is located (a “substandard lot of record”), it must meet 1 or more of the exemptions identified in SCC 14.16.850(4)(c).
- (2) Pursuant to SCC 14.06.090(1)(b), a lot certification shall be required prior to or as a part of any of the following development permit applications: land divisions, boundary line adjustments, binding site plans pursuant to SCC 14.18.500, individual Comprehensive Plan Map amendments, new on-site sewage systems pursuant to SCC 12.05.090, building permits for new residential, commercial, industrial or institutional structures or structures accessory thereto, special use permits, variance permits, administrative decisions of reduction of setbacks pursuant to SCC 14.16.810(4), or any permits seeking to qualify under the vesting sections of SCC 14.02.050.
- (3) A separate assessor’s parcel number, alone, shall not be sufficient evidence that the lot meets the definition of a lot of record. Evidence that the lot in question meets the definition of lot of record shall be required for lot certification.
- (4) Once issued, the lot certification shall be recorded with the Skagit County Auditor. A determination that the lot does not meet the lot of record requirements shall also be recorded for purposes of innocent purchaser notification as described in SCC 14.18.000(9).
- (5) Once issued, a lot certification shall constitute the final determination regarding lot of record status for the specified legal description. Any future development permit requests on the same legal description shall not require a new lot certification review, but may rely on the existing lot certification. Lot certifications issued by the County prior to the effective date of this Section for lots satisfying the provisions of former SCC 14.04.190(5) in effect at the time of certification shall be recorded by the owner and shall be entitled to the same finality as lot certifications issued pursuant to this Section. All other previously issued lot certifications will be considered as sufficient evidence for meeting the requirements of Subsection (1)(a) of this Section, but will need further review to determine the eligibility for development under Subsection (1)(b) of this Section.
- (6) Issuance of a lot certification that includes a determination that the lot of record is eligible to be considered for development permits under Subsection (1)(b) of this Section shall not constitute a determination that the lot of record has met all other applicable requirements of the Skagit County Code, including, but not limited to, Chapter 12.05 SCC (On-Site Sewage Code), Chapter 12.48 SCC (Drinking Water Systems), Chapter 14.24 SCC (Critical Areas), Chapter 14.26 SCC (Shorelines), Chapter 14.28 SCC (Concurrency), Chapter 14.34 SCC (Flood Damage Prevention), nor any requirements of the specific zoning designation, other than the minimum lot size requirements. Nothing in this Section shall be interpreted to replace or supersede any requirements of any applicable public or private water purveyor.
- (7) A lot owner may apply for lot certifications for a group of undeveloped lots contained within a subdivision approved on or after March 1, 1965, as a single lot certification application. In addition, when future subdivisions are approved pursuant to Chapter 14.18 SCC, the plat map shall include a note regarding lot certification and lot certifications shall be issued and recorded for all lots upon recording of the plat.

- (8) The lot certification review and decision shall be an administrative review and determination process as described in SCC 14.06.040(5) and may be appealed to the Hearing Examiner according to the appeal process for Level I decisions listed in SCC 14.06.110. Because a lot certification is not a development permit application, but instead is required as part of a development permit application, the lot certification shall not require a letter of completeness (SCC 14.06.100), a Notice of Development Application and public comment period (SCC 14.06.150), nor a Notice of Decision (SCC 14.06.200). (Ord. O20070009 (part); Ord. O20040017 (part))

**14.06.050 Application level.**

- (1) Applications for development permits shall be categorized as 1 of 4 levels as follows; provided, that shoreline applications shall be processed as described in the Skagit County Shoreline Management Master Program:
- (a) Level I. Level I applications are those applications for which a final decision is made by the applicable Administrative Staff, either the Director of Public Works or his/her designee, or the Director of Planning and Development Services or his/her designee, without a public hearing. That decision may then be appealed in an open record appeal hearing to the Hearing Examiner. The Hearing Examiner decision may then be appealed in a closed record appeal to the Board. Level I applications include:
- (i) Boundary line adjustments pursuant to Chapter 14.18 SCC.
  - (ii) Short subdivisions pursuant to Chapter 14.18 SCC.
  - (iii) Binding site plans pursuant to Chapter 14.18 SCC of less than 9 lots, tracts, parcels or units.
  - (iv) Long subdivisions of fewer than 9 lots, tracts or parcels unless a public hearing has been requested pursuant to SCC 14.06.110(15), in which case they shall be processed as a Level III-HE decision, the same as long subdivisions of between 9 and 50 lots, and provided that the additional notice procedures of SCC 14.06.110(15) for this administrative long subdivision must be met. RCW 58.17.095 provides statutory authority for the administrative long development permits subdivision process.
  - (v) Flood area pursuant to Chapter 14.34 SCC.
  - (vi) Applicability of any of the provisions of SCC Title 14 to the issuance of Building Permits including, but not limited to, application of mitigation pursuant to the authority of the State Environmental Policy Act and Chapter 14.12 SCC. Appeals of interpretations by the building official pursuant to SCC Title 15 shall be governed by the requirements of Chapter 15.16 SCC.
  - (vii) Administrative special use permits, pursuant to SCC 14.16.900(1).
  - (viii) Concurrency review pursuant to Chapter 14.28 SCC (Concurrency).
  - (ix) Threshold determinations pursuant to Chapter 14.12 SCC (SEPA).
  - (x) Technical deviations from the requirements of Chapter 14.32 SCC (Drainage).
  - (xi) Administrative interpretations regarding existing permits and land use approvals that did not originally require a public hearing.
  - (xii) Administrative decisions.
  - (xiii) Administrative variances pursuant to SCC 14.10.020(1).
  - (xiv) Forest Practice Act waivers for single-family residential development.
  - (xv) Other actions authorized by SCC Title 14.
- (b) Level II. Level II applications are those applications that require an open record pre-decision hearing level before the Hearing Examiner and for which the Hearing Examiner decision is final, unless that decision is appealed to the Board in a closed record appeal. Level II applications include:
- (i) Hearing Examiner variances pursuant to SCC 14.10.020(3).
  - (ii) Hearing Examiner special use permits.
  - (iii) Forest Practices Act waivers for other than single-family residential development.
  - (iv) Request from the County or an owner to review or interpret a previously issued land use permit that required a public hearing by any County entity or Board, including, but not limited to, conditional uses, special uses and variances for the purpose of considering possible revocation, suspension, clarification or modification.
  - (v) Hearing Examiner URDP pursuant to SCC 14.16.910(2).
  - (vi) Review of preliminary long subdivisions which contain between 9 and 50 lots, tracts or parcels on contiguous land under the same ownership pursuant to Chapter 14.18 SCC.
  - (vii) Review of binding site plans that contain between 9 and 50 lots, tracts, parcels or units on contiguous land under the same ownership pursuant to Chapter 14.18 SCC.

- (viii) Recommendations on development agreements involving 50 or less lots or residential dwelling units or 50,000 square feet or less of commercial or industrial building space.
- (c) Level III. Level III applications are those applications that require an open record pre-decision hearing before the Hearing Examiner (“Level III-HE”) or before the Planning Commission (“Level III-PC”), and for which the Hearing Examiner or Planning Commission action is only a recommendation. The Board of County Commissioners shall make the final decision after a closed record hearing on the Level III-HE actions. The Hearing Examiner shall make the final decision after a closed record hearing on Level III-PC actions.
  - (i) Level III-HE.
    - (A) Board of County Commissioners’ variances pursuant to SCC 14.10.020(2) and 14.16.860, Agricultural land preservation.
    - (B) Other recommendations as requested by the Board.
  - (ii) Level III-PC.
    - (A) Review of preliminary long subdivisions containing more than 50 lots, tracts or parcels on contiguous land under the same ownership pursuant to Chapter 14.18 SCC.
    - (B) Review of binding site plans that contain more than 50 lots, tracts, parcels or units pursuant to Chapter 14.18 SCC.
    - (C) Recommendations on development agreements of more than 50 lots or residential dwelling units or more than 50,000 square feet of commercial or industrial building space.
    - (D) Other recommendations as requested by the Hearing Examiner.
- (d) Level IV. Level IV applications are those development permit applications that do not require a public hearing, but require a final decision by the Hearing Examiner. Level IV applications include: final long subdivisions pursuant to Chapter 14.18 SCC. (Ord. O20070009 (part); Ord. O20050007 § 16; Ord. 17938 Attch. F (part), 2000)

**14.06.060 Consolidation of development permit applications.**

The County shall consolidate the development application approval process, unless the applicant requests otherwise, and review in order to integrate the development permit and environmental review process and avoid duplication of the review processes. Consolidated permit processing shall follow the review and approval process of the highest numbered permit level represented among the required permits. Level III-PC is considered the highest and Level I is considered the lowest. However, the applicant may determine whether the multiple permit applications shall be processed concurrently or independently, except that a variance associated with a preliminary land division shall be processed concurrently with the proposed land division. A consolidated hearing will result if the applicant does not make a request. For applications that are processed individually, the highest numbered permit level shall be acted upon prior to the processing of the lower numbered permit level, unless the higher numbered permit level is dependent on first obtaining a favorable administrative interpretation (Level I), in which case the Level I decision must either be processed concurrently, or must be processed first; provided, however, that the administration of County road standard alternatives under the Road Standards Manual shall not require consolidation, unless required by the Director of Planning and Development Services pursuant to Section 2.10 of the Road Standards Manual. (Ord. O20070009 (part); Ord. 17938 Attch. F (part), 2000)

**14.06.070 Integration of SEPA review with development permit review.**

- (1) 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 14.12 SCC, SEPA, and Chapter 197-11 WAC.
- (2) SEPA and the review of development permit applications shall be combined and integrated in all development permits that are not categorically exempt from SEPA or for which environmental review has not already been completed in the following manner:
  - (a) SEPA review, if required, should be analyzed in 1 development permit review process that includes land use, environmental, public and governmental review as established by this Chapter. If applicable development regulations already require studies that adequately analyze a project’s specific probable adverse impacts, then additional or redundant studies shall not be required under SEPA.
  - (b) Documents or studies prepared in the development permit review process under the requirements of SEPA or specific development regulations shall be prepared so that they can be reviewed by the public, the County and other agencies during the applicable comment periods.

- (c) A SEPA threshold determination and/or a scoping notice may be issued with a Notice of Development Application; provided, that 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 and SCC 14.12.070) 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.
  - (d) Any appeal of a determination of significance as described in SCC 14.12.210 may proceed in advance of any hearings or appeals of the underlying development permit. Any appeals of a determination of nonsignificance shall be combined with and processed at the same time as the hearings or appeals of the underlying development permit.
- (3) SEPA review of proposals located wholly or partially within critical areas is discussed at SCC 14.12.260. The interplay between the critical areas review and regulation under SEPA is discussed at SCC 14.24.060. (Ord. 17938 Atch. F (part), 2000)

**14.06.080 Pre-development and pre-application review.**

- (1) Pre-Development. Applicants may request and participate in an informal meeting prior to the formal pre-application meeting, although such pre-development meetings are not required. The purpose of the meeting is to discuss, in general terms, the proposed development, application requirements, design standards, design alternatives, other required permits and the approval process.
- (2) Pre-Application. Applicants must participate in a pre-application meeting, unless a waiver is requested by the applicant and approved by the Administrative Official. No pre-application meeting is required for administrative interpretations, administrative decisions, administrative variances, boundary line adjustments, and flood area development permits. A pre-application verification form shall be given to the applicant upon the conclusion of the meeting. The purpose of the meeting is to conduct a review of the development application prior to submittal to the Department. Pre-application review will include discussion of requirements for application completeness, permit or approval requirements, fees, review process and schedule, and responding to questions from the applicant. In order to expedite development review, the County may invite all affected jurisdictions, agencies and/or special purpose districts to the pre-application meeting. If a project is proposed to be located within a municipal urban growth area, a representative from that municipality may be invited to the pre-application meeting with a minimum of a 7-day notice. To schedule the required pre-application meeting, the applicant shall submit the information required on the pre-application conference form provided by the County. The meeting shall be held within 14 days of the request by the applicant. (Ord. 17938 Atch. F (part), 2000)

**14.06.090 Contents of application.**

- (1) The applicant shall apply for all permits and approvals required by the Skagit County Code. A development application shall be declared complete only when the County has received all of the following:
  - (a) A fully completed, signed, and acknowledged development application and all applicable review fees for each permit or approval required.
  - (b) Lot of record certification if required pursuant to SCC 14.06.045(2).
  - (c) A verified statement by the applicant that all of the property that is the subject of the application is either in the exclusive ownership of the applicant or that the applicant has submitted the application with the consent of all owners of the property.
  - (d) A fully completed, signed, and acknowledged environmental checklist for projects subject to review under the State Environmental Policy Act and/or a completed Critical Areas Ordinance checklist.
  - (e) A concurrency letter pursuant to Chapter 14.28 SCC.
  - (f) The information specified for the required development permits and approvals in the appropriate chapters of the Skagit County Code.

Provided, however, that additional materials may be required based on project specific and site specific issues, as identified in writing by the Administrative Official as part of the pre-application process.
- (2) For purposes of vesting to certain land uses proposed in the application, as described in Chapter 14.02 SCC, the application shall also include a description of the proposed uses, their intensities and their proposed locations within the site, as applicable.

- (3) If a pre-application meeting is not waived, the pre-application verification form shall be submitted as part of the application package.
- (4) The County shall provide a dated application form for each type of application. During project review, the Department may request additional information or studies in writing if needed to address particular aspects of the project or site. While the project review clock will formally stop during the time that the additional information is being assembled, Department review of other aspects of the project may continue. (Ord. O20040017 (part); Ord. 17938 Attch. F (part), 2000)

**14.06.100 Letter of completeness.**

- (1) The provisions of this Section shall apply to all permit applications governed by this Title.
- (2) Within 28 days of receiving a date stamped application, the Administrative Official shall review the application as set forth below and provide the applicant with a written determination that the application is complete or incomplete.
- (3) For applications determined to be incomplete, the Administrative Official shall identify, in writing, the specific requirements or information necessary to constitute a complete application. If additional information is required, the applicant shall have 180 days to submit the required information to the Department. The Department shall notify the applicant as to when the 180-day period will end. If the applicant does not submit the required information within the 180-day period, the application shall lapse. Prior to the expiration date, the applicant may request in writing an extension of time. The Administrative Official may grant 1 or more 3-month extensions if the required studies or information warrants additional time. Upon submittal of the additional information, the Administrative Official shall, within 14 days, issue a letter of completeness or identify what additional information is required.
- (4) An application may be deemed complete if the County does not provide a written determination to the applicant that the application is incomplete within the time required in this Section.
- (5) The determination of completeness shall not preclude the Administrative Official from requesting additional information or studies either at the time of the notice of completeness or, subsequently, if new information is required or substantial changes in the proposed action occur.
- (6) The determination of completeness may include the following as optional information:
  - (a) A preliminary determination of those development regulations that will be used for project mitigation.
  - (b) A preliminary determination that the type of land use is permitted, either outright or under limited or special circumstances on the site.
  - (c) A preliminary determination of whether the proposed density is consistent with applicable Comprehensive Plan designations, zoning designations and development regulations.
  - (d) A preliminary determination regarding the availability and adequacy of public facilities and services identified in the Comprehensive Plan.
  - (e) Other information the County chooses to include. (Ord. 17938 Attch. F (part), 2000)

**14.06.110 Level I review procedures.**

- (1) Pre-development meetings described in SCC 14.06.080(1) are optional.
- (2) Pre-application meetings described in SCC 14.06.080(2) are required before filing an application, unless the Administrative Official has approved a waiver of the pre-application meeting.
- (3) Letter of completeness review procedures from SCC 14.06.100 are required.
- (4) Unless exempt by SCC 14.06.150(2)(a), the Notice of Development Application and comment period procedures of SCC 14.06.150(2)(b) through (e) are required.
- (5) After the close of any required comment period, including any threshold determination comment period required by Chapter 43.21C RCW and Chapter 14.12 SCC, the Administrative Official shall approve, approve with conditions or deny the Level I application. The Administrative Official's decision shall include a statement of applicable criteria and standards from the Skagit County Comprehensive Plan and development regulations or other applicable law and a statement of facts that the Administrative Official found which shows that the application does or does not comply with each applicable approval criterion and assurance of compliance with applicable standards. The decision shall also contain the Administrative Official's reasons for the decision.
- (6) Notice of Decision, unless exempt, shall be issued, consistent with the requirements of SCC 14.06.200. The Administrative Official's decision shall be final unless appealed as provided below.
- (7) A Level I decision may be appealed to the Hearing Examiner by the applicant or by parties who have commented on the proposal by filing a written Notice of Appeal, together with the applicable appeal fee, with the Administrative

Official within 14 days of the date the Notice of Decision was issued. If a Notice of Decision is not required, because the decision is exempt pursuant to SCC 14.06.200(1), then any appeal shall be filed within 14 days of the date the Administrative Official makes the decision.

- (8) The Notice of Appeal shall contain a concise statement identifying:
  - (a) The decision being appealed.
  - (b) The name and address of the appellant and his interest(s) in the matter.
  - (c) The specific reasons why the appellant believes the decision to be wrong.
  - (d) The desired outcome or changes to the decision.
  - (e) Any Skagit County Code Section(s) the appellant deems relevant.
- (9) The Notice of Appeal must be accompanied by an appeal fee and will not be considered filed unless the appeal fee accompanies it.
- (10) Public notice of the open record appeal hearing shall be provided as required by SCC 14.06.150(3).
- (11) The appeal shall be heard in an open record hearing before the Hearing Examiner, pursuant to the procedures for open record hearings described in SCC 14.06.160. The open record hearing shall be held and a decision rendered within 90 days of the receipt of the written Notice of Appeal. The appellant shall bear the burden of proving that the decision of the Administrative Official was clearly erroneous. The Hearing Examiner shall not overturn or modify the Administrative Official's decision unless he or she finds it was clearly erroneous.
- (12) The Hearing Examiner decision may be subject to a request for reconsideration as provided in SCC 14.06.180.
- (13) The decision of the Hearing Examiner on the open record appeal may be appealed to the Board by filing a written Notice of Appeal with the clerk of the Board that meets the requirements of Subsections (8) and (9) of this Section within 14 days after the date of the Hearing Examiner decision, or decision on reconsideration, if applicable. This appeal shall be processed as a closed record appeal, pursuant to the provisions of SCC 14.06.170. The appellant shall bear the burden of proving the decision of the Hearing Examiner was clearly erroneous. The Board shall not overturn or modify the decision of the Hearing Examiner unless it finds it is clearly erroneous. The closed record appeal shall be conducted and a decision rendered within 60 days of the receipt of the Notice of Appeal.
- (14) Any appeal of the Board decision shall be to Superior Court, as provided in SCC 14.06.220 (Judicial Appeals).
- (15) Administrative long subdivisions of fewer than 9 lots, tracts or parcels shall further comply with the following notice and comment provisions:
  - (a) The Notice of Development Application shall be made within 10 days of the filing of a letter of completeness.
  - (b) The Notice of Development Application shall be posted on or around the parcel being subdivided in at least 5 conspicuous places designed to attract public awareness of the proposal and mailed to the owner of each parcel within 300 feet of the site.
  - (c) The Notice of Development Application shall include notification that no public hearing will be held in conjunction with the application, except as provided in this Subsection.
  - (d) The Notice of Development Application shall set out the procedures and time limitations for persons to require a public hearing and make comments.
  - (e) Any person shall have 21 days from the date of the Notice of Development Application to comment on the proposed preliminary long subdivision. All comments received shall be provided to the applicant. The applicant has 7 days from receipt of the comments to respond thereto.
  - (f) A public hearing on the proposed subdivision shall be held (and the subdivision shall therefore be processed as a Level III-HE decision) if any person files a request for a hearing with the County within 21 days of the publishing of such notice.
  - (g) On its own initiative within 21 days of the filing of the complete application, the County is authorized to cause a public hearing to be held on the proposed subdivision. (Ord. 17938 Attch. F (part), 2000)

**14.06.120 Level II review procedures.**

- (1) Pre-development meetings described in SCC 14.06.080(1) are optional.
- (2) Pre-application meetings described in SCC 14.06.080(2) are required before filing an application, unless the Administrative Official has approved a waiver of the pre-application meeting.
- (3) Letter of completeness review procedures from SCC 14.06.100 are required.
- (4) The Notice of Development Application and comment period procedures of SCC 14.06.150(3)(b) through (e) are required.



- (5) Before an application has been set for open record public hearing, before the Hearing Examiner and after the close of any required comment period, including any threshold determination comment period required by Chapter 43.21C RCW and Chapter 14.12 SCC, the Department shall coordinate and assemble the comments and recommendations of other County departments and governmental agencies having an interest in the subject application and shall prepare a staff report summarizing the factors involved, including the Department findings and supportive recommendations. The staff report shall be filed with the Hearing Examiner at least 7 days prior to the scheduled hearing and copies thereof shall be mailed to the applicant and shall be made available for use by any interested party at the reproduction cost.
- (6) Notice of public hearing shall be as required by SCC 14.06.150(3).
- (7) The Hearing Examiner shall conduct review of the development permit in an open record pre-decision hearing, pursuant to the requirements for those hearings in SCC 14.06.160. A Notice of Decision of the Hearing Examiner shall be issued as required in SCC 14.06.200.
- (8) The Hearing Examiner Decision may be subject to a request for reconsideration as provided in SCC 14.06.180.
- (9) The decision of the Hearing Examiner after the open record hearing shall be final, unless appealed to the Board by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the Hearing Examiner decision, or decision on reconsideration, if applicable. The appeal fee must accompany the Notice of Appeal, and the Notice of Appeal is not considered filed unless the appeal fee accompanies it.
- (10) The Notice of Appeal shall contain a concise statement identifying:
  - (a) The decision being appealed.
  - (b) The name and address of the appellant and his interest(s) in the matter.
  - (c) The specific reasons why the appellant believes the decision to be wrong.
  - (d) The desired outcome or changes to the decision.
  - (e) Any Skagit County Code section(s) the appellant deems relevant.
- (11) This appeal shall be processed as a closed record appeal, pursuant to the provisions of SCC 14.06.170. The appellant shall bear the burden of proving the decision of the Hearing Examiner was clearly erroneous. The Board shall not overturn or modify the decision of the Hearing Examiner unless they find it is clearly erroneous. The closed record appeal shall be conducted and a decision rendered within 60 days of the receipt of the Notice of Appeal.
- (12) Any appeal of the Board decision shall be to Superior Court, as provided in SCC 14.06.220, Judicial appeals. (Ord. O20070009 (part); Ord. 17938 Attch. F (part), 2000)

**14.06.130 Level III review procedures.**

- (1) Pre-development meetings described in SCC 14.06.080(1) are optional.
- (2) Pre-application meetings described in SCC 14.06.080(2) are required before filing an application, unless the Administrative Official has approved a waiver of the pre-application meeting.
- (3) Letter of completeness review procedures from SCC 14.06.100 are required.
- (4) The Notice of Development Application and comment period procedures of SCC 14.06.150(3)(b) through (e) are required.
- (5) Before an application has been set for open record public hearing before the Hearing Examiner or the Planning Commission, and after the close of any required comment period, including any threshold determination comment period required by Chapter 43.21C RCW and Chapter 14.12 SCC, the Department shall coordinate and assemble the comments and recommendations of other County departments and governmental agencies having an interest in the subject application and shall prepare a staff report summarizing the factors involved, including the Department findings and supportive recommendations. The staff report shall be filed with the Hearing Examiner or the Planning Commission at least 7 days prior to the scheduled hearing and copies thereof shall be mailed to the applicant and shall be made available for use by any interested party at the reproduction cost.
- (6) Notice of public hearing shall be as required by SCC 14.06.150(3).
- (7) The Hearing Examiner or the Planning Commission shall conduct review of the development permit in an open record pre-decision hearing, pursuant to the requirements for those hearings in SCC 14.06.160.
- (8) After conducting the open record hearing, the Hearing Examiner or the Planning Commission shall prepare a recommendation to the Board in writing that shall include findings of fact and conclusions based on those facts. The recommendation may include such conditions, modifications and restrictions the Hearing Examiner or the Planning Commission deem necessary to carry out the objectives and goals of the Comprehensive Plan, the Zoning Ordinance, the Subdivision Ordinance, and other codes and ordinances of Skagit County. Each recommendation

shall be transmitted to the Board and mailed to the applicant and all parties of record within 14 days following conclusion of all hearings or the date for submittal of all written comment, whichever is later, unless a longer period is mutually agreed to in writing by the applicant. For Level III Planning Commission recommendations, the Planning Commission recommendation shall be by recorded motion and shall be by affirmative vote of not less than a majority of the total members.

- (9) Upon receiving a recommendation from the Hearing Examiner or Planning Commission, the Board shall, at its next regular public meeting set the date for a closed record hearing pursuant to the requirements of SCC 14.06.170.
- (10) The decision of the Board, after conducting a closed record hearing on the matter shall be final. A Notice of Decision of the Board shall be issued as required by SCC 14.06.200.
- (11) Any appeal of the Board decision shall be to Superior Court, as provided in SCC 14.06.220, Judicial appeals. (Ord. 17938 Attch. F (part), 2000)

#### **14.06.140 Level IV review procedures.**

- (1) Pre-development meetings described in SCC 14.06.080(1) are optional.
- (2) Pre-application meetings described in SCC 14.06.080(2) are required before filing an application, unless the Administrative Official has approved a waiver of the pre-application meeting.
- (3) Letter of completeness review procedures from SCC 14.06.100 are required.
- (4) Notice of Development Application and comment period procedures of SCC 14.06.150(2)(b)(viii) are required.
- (5) After the close of any public comment period required by SCC 14.06.150(3), the Department shall coordinate and assemble the comments and recommendations of other County departments and governmental agencies having an interest in the subject application and shall prepare a staff report summarizing the factors involved, including the Department findings and recommendations and shall transmit the same in a staff report to the Board for final action.
- (6) Upon receipt of the Department recommendation, the Board shall, at its next regular public meeting, set the date for a public meeting where it may, by resolution, adopt or reject the referred action. No public hearing is required. The Board may remand the matter back to the Department for further study and additional staff comments before taking action.
- (7) The decision of the Board shall be final and a Notice of Decision, pursuant to SCC 14.06.200 is required.
- (8) Any appeal of the Board decision shall be to Superior Court, as provided in SCC 14.06.220 (Judicial Appeals). (Ord. 17938 Attch. F (part), 2000)

#### **14.06.150 Public notice requirements.**

- (1) For all public notices that require mailing to property owners and physical addresses, the applicant shall use the records of the Skagit County Assessor's Office for determining all of the owner(s) of record and all physical addresses within 300 feet of all subject property lines or as otherwise required in Subsection (2)(d)(iii) of this Section. The applicant shall provide the Department with a mailing list including the names and addresses of all applicable property owners and all applicable physical addresses as well as corresponding preaddressed and stamped envelopes, and the Department shall mail the notice. This submittal shall be completed by the applicant within the time frames for notice specified in this Section. The information provided shall be that on record with the Assessor's Office as of no more than 3 months from the date of public notice. Information obtained more than 3 months prior to the date of public notice shall be reviewed for accuracy by the applicant and updated, if necessary, prior to mailing. Failure to submit the required material or perform any necessary review and/or updated could result in continuation of any scheduled hearing or decision. The County shall provide a format, both in time frame and content, for the public notice to the applicant.
- (2) Notice of Development Application Requirements.
  - (a) Exemption. A Notice of Development Application pursuant to this Section shall not be required for:
    - (i) Boundary line adjustments.
    - (ii) Short subdivisions.
    - (iii) Building permits, flood area development permits or similar construction permits that are categorically exempt from SEPA, or for which SEPA review has previously been completed in connection with other development permits.
    - (iv) Forest Practice Act waivers for single-family residential development where the initial critical area review and site visit concludes that no critical areas have been impacted, or do not exist.
    - (v) Forest practice conversions.

- (vi) Conversion option harvest plans.
  - (b) Within 14 days of issuing a letter of completeness under SCC 14.06.100, the County shall issue a Notice of Development Application for Level I, II, III and IV Applications not exempt under Subsection (2)(a) of this Section. The notice shall be dated and shall include, but not be limited to, the following information:
    - (i) The name of the applicant.
    - (ii) The date of application.
    - (iii) The date of the letter of completeness.
    - (iv) The location of the project.
    - (v) A project description.
    - (vi) Identification of other required permits not included in the application to the extent known by the County.
    - (vii) A list of development permits included in the application and, if applicable, a list of studies requested in the letter of completeness or final decision.
    - (viii) A public comment period which shall be not less than 15 days nor greater than 30 days following the date of the Notice of Development Application, and a statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. The Notice of Development Application shall also state that failure to submit such comment or request during the comment period or at the public hearing could result in loss of right to appeal; provided, however, that there exists a 21-day comment period for administrative long plats, under SCC 14.06.110(15).
    - (ix) An identification of existing environmental documents used to evaluate the proposed application and where they can be reviewed. The Notice of Development Application may be combined with the notice of SEPA threshold determination as described in SCC 14.06.070 and Chapter 14.12 SCC, SEPA.
    - (x) A preliminary determination, if one has been made at the time of the notice, of development regulations that will be used for the project mitigation and consistency with appropriate provisions of the Comprehensive Plan and development regulations and the adequacy of public facilities and services as described in SCC 14.06.100(6).
    - (xi) A County staff contact and phone number.
    - (xii) The date, time and place of a public hearing if one has been scheduled.
    - (xiii) A statement that the decision on the application will be made within 120 days of the date of the letter of completeness unless such time period is extended consistent with RCW 36.70B.090 and SCC 14.06.210.
  - (c) The Notice of Development Application shall be issued prior to, and is not a substitute for, the required notice of a public hearing.
  - (d) Notice of Development Application shall be made as follows:
    - (i) Published in the official newspaper of the County.
    - (ii) Posted with an identification sign provided by Skagit County in 1 or more locations on the project site that is visible from the access road giving the name and general description of the proposed project and a contact name and phone number for more information. The posted sign may be removed no earlier than 14 days after the decision on the application.
    - (iii) Mailed to all owners of record located within 300 feet of all subject property lines, or, if the applicant owns property adjacent to the subject property, notice shall be given to all physical addresses and all owners of real property within 300 feet of any portion of the boundaries of such adjacent properties owned by the applicant. Further provided, however, when the Administrative Official finds that a need exists, and so informs the applicant at the preapplication meeting, notice shall be given to owners of real property within 500 feet of any portion of the applicable boundaries.
    - (iv) Sent to all County Departments and agencies with jurisdiction.
    - (v) For all development permit applications submitted on lands located in the URR, URC-I, URP-OS, A-UD and MV-UD zoning districts not otherwise exempt from these notice requirements, a copy of the Notice of Development Application shall also be mailed to the city in whose UGA the proposed development is located.
  - (e) The County will not issue a decision or a recommendation on a project until the expiration of the public comment period on the Notice of Development Application and expiration of the appeal period on any threshold determination.
- (3) Notice of Public Hearing. Public notification of hearings under SCC Title 14 shall be made as follows:

- (a) Notice of time, place, and purpose of any public hearing pursuant to this Chapter shall be given by 1 publication at least 14 days before the date of a public hearing or pending action in the official newspaper of the County.
  - (b) Mailing written notice at least 14 days before the date of a public hearing to the applicant and all owners and physical addresses (as shown on the records of the County Assessor) of properties within 300 feet, not including street rights-of-way, of the boundaries of the property which is the subject of the hearing, or, if the applicant owns property adjacent to the boundary of the development permit, notice shall be given to all physical addresses and owners of real property within 300 feet of any portion of the boundaries of such adjacent properties owned by the applicant. For properties located within the URR, URC-I or URP-OS, A-UD, and MV-UD zones, the notice shall also be mailed to the city in whose UGA the property is located.
  - (c) A notice shall be posted at least 14 days before the hearing in a conspicuous space on or near the property for which the permit is sought.
  - (d) Content of Notice. The notice shall include a general description of the proposed project, action requested to be taken, a nonlegal description of the property (street address/general location) or a vicinity map or sketch, the time, date and place of the public hearing, and the place where further information may be obtained.
  - (e) Continuations. If for any reason a commenced hearing on a pending action cannot be completed on the date set in the public notice, the hearing may be continued to a date certain and no further notice under this Section is required.
- (4) Notice of Decisions. See SCC 14.06.200. (Ord. O20070009 (part); Ord. O20050007 § 10 (part); Ord. 17938 Attch. F (part), 2000)

**14.06.160 Open record public hearings procedures.**

- (1) Types. Open record public hearings may be 1 of 2 types:
  - (a) Open record appeal hearings of a Level I administrative decision; or
  - (b) An open record pre-decision hearing required before making a decision on a Level II or Level III permit decision.
- (2) Standing to Appeal.
  - (a) Only the applicant and parties of record as defined by Chapter 14.04 SCC shall have standing to file an open record appeal.
  - (b) Any interested party may participate orally and/or in writing in an open record pre-decision hearing.
- (3) Burden of Proof.
  - (a) In the case of open record appeal hearings of Level I administrative decisions, the appellant shall bear the burden of demonstrating that the decision of the Administrative Official is clearly erroneous.
  - (b) In the case of open record predecision hearings for Level II or Level III decisions, the applicant for the development permit shall bear the burden of demonstrating that the project complies with applicable goals and policies of the Comprehensive Plan and the applicable criteria and requirements of the Skagit County Code and other applicable law.
- (4) Timing for Hearings.
  - (a) Open record appeal hearings shall be conducted and a decision rendered within 90 days of the receipt of the written Notice of Appeal.
  - (b) Open record predecision hearings shall be conducted consistent with the time requirements for decision described in SCC 14.06.210.
- (5) Staff Report by Department.
  - (a) In an open record appeal hearing, at least 7 days prior to the date set for the open record public hearing, the Department shall transmit to the hearing body all of the records pertaining to the decision being appealed, together with such additional written report that the Administrative Official deems pertinent explaining the decision being appealed or responding to the statements in the Notice of Appeal. If the Administrative Official prepares an additional written staff report, a copy shall also be sent to the applicant and to any appellants 7 days prior to the date set for the hearing.
  - (b) In the case of a pre-decision open record hearing, the Department shall coordinate and assemble the comments and recommendations of other County Departments and governmental agencies having an interest in the subject application and shall prepare a staff report summarizing the factors involved, including the Department findings and supportive recommendations. The staff report shall be filed with the Hearing Examiner or the

- Planning Commission at least 7 days prior to the scheduled hearing and copies thereof shall be mailed to the applicant and shall be made available for use by any interested party at the reproduction cost.
- (6) One Public Hearing. Before rendering a decision or recommendation on the Development permit or appeal, the Hearing Examiner or the Planning Commission shall hold 1 public hearing pursuant to SCC 14.06.060, however, the public hearing may be continued for more than 1 day. Notice of the public hearing shall be provided as required in SCC 14.06.150(3). The public hearing may be continued to a date, time and place certain, without requiring additional public notice, as long as the requirements of the Open Public Meetings Act, Chapter 42.30 RCW, are met.
  - (7) Open Record Hearing Procedures. Open record public hearings shall be conducted in accordance with the hearing body's rules of procedure as set forth below and shall serve to create or supplement an evidentiary record upon which the body will base its decision.
    - (a) Pre-Decision Hearings. The chair or Hearing Examiner shall open the public hearing and, in general, observe the following sequence of events:
      - (i) Staff representation, including submittal of any administrative staff reports. Members of the hearing body may ask questions of the staff.
      - (ii) Applicant presentation, including submittal of any materials. Members of the hearing body may ask questions of the applicant.
      - (iii) Testimony or comments by the public germane to the matter. Questions directed to the staff or the applicant shall be posed by the chair or Hearing Examiner at its discretion.
      - (iv) An opportunity for parties to cross-examine expert witnesses, if any.
      - (v) Rebuttal, response or clarifying statements by the staff and the applicant.
      - (vi) The oral portion of the public hearing shall be closed.
      - (vii) The hearing body may continue the written comment period after the close of the public hearing.
      - (viii) The hearing body shall deliberate on the matter before it.
    - (b) Appeal Hearings. The chair or Hearing Examiner shall open the public hearing and, in general, observe the following sequence of events:
      - (i) Opening statements.
      - (ii) Appellant(s) presentation, including submittal of exhibits and calling of witnesses.
      - (iii) Staff presentation, including submittal of exhibits and calling of witnesses.
      - (iv) Other respondent's presentation, including submittal of exhibits and calling of witnesses.
      - (v) Questions directed to witnesses shall be posed by the chair or Hearing Examiner at its discretion.
      - (vi) An opportunity for parties to cross-examine all witnesses.
      - (vii) Rebuttal testimony by appellant(s), staff and any other respondents;
      - (viii) Closing arguments;
      - (ix) The oral portion of the public hearing shall be closed.
      - (x) The hearing body may continue the written comment period after the close of the public hearing.
      - (xi) The hearing body shall deliberate on the matter before it.
  - (8) As described in SCC 14.06.240 and 14.06.250, the Hearing Examiner or the Planning Commission may adopt other rules of procedure not inconsistent with these procedures. Further, if deemed appropriate to facilitate review of a particular development permit, the Hearing Examiner or the Planning Commission may adopt specific procedures for an individual matter.
  - (9) Decision or Recommendation. Within 15 days after completion of the public hearing or after the date for submittal of all written comments, whichever is later, the Hearing Examiner or the Planning Commission shall render a decision or make a recommendation on the appeal or development permit. The Hearing Examiner or the Planning Commission decision or recommendation shall be in writing and shall include a statement of the applicable criteria and standards from the Skagit County Comprehensive Plan; the Skagit County Code and other applicable law; a statement of the facts that the Hearing Examiner or the Planning Commission found showing the application does or does not comply with each applicable approval criterion and assurance of compliance with applicable standards; the reasons for the decision or the recommendation to approve or deny the development permit or appeal; and any conditions or modifications deemed necessary. (Ord. O20070009 (part); Ord. O20050003 (part); Ord. 17938 Attch. F (part), 2000)

**14.06.170 Closed record hearings/appeal procedures.**

- (1) Types. Closed record hearings may be 1 of 2 types:

- (a) Closed record appeal of a Level I or Level II decision.
- (b) Closed record predecision hearing before acting on a Level III recommendation.
- (2) Standing.
  - (a) Only the applicant and parties of record as defined by Chapter 14.04 SCC shall have standing to file a closed record appeal of a Level I or Level II decision.
  - (b) Any interested party may participate orally and/or in writing in a closed record predecision hearing for a Level III decision.
- (3) Burden of Proof. The appellant in a closed record appeal hearing of a Level I or Level II decision or any interested party in a closed record predecision hearing for a Level III recommendation shall have the burden of demonstrating that the decision or recommendation of the Administrative Official, the Hearing Examiner or the Planning Commission, as applicable, is clearly erroneous.
- (4) Closed record appeals shall be conducted and a decision rendered within 60 days of the date the Notice of Appeal was filed. Closed record predecision hearings shall be conducted consistent with the time frames for development permit decisions in SCC 14.06.210.
- (5) Staff Report by Department. The Department shall transmit to the Board the record from the Hearing Examiner or Planning Commission open record hearing, a copy of the decision or recommendation being reviewed, and any supplemental summary or staff report the Department deems necessary at least 7 days prior to the date set for the closed record hearing. The supplemental staff report, if any, shall also be provided to the applicant and any parties of record at the same time it is provided to the Board.
- (6) Notice of Closed Record Appeal Hearing. Notice of the hearing shall be provided to all parties of record and contain the following information:
  - (a) Mailing written notice at least 14 days before the date of the closed record hearing to the applicant and all parties of record.
  - (b) Content of Notice. The notice shall include a general description of the proposed project, action requested to be taken, a nonlegal description of the property (street address/general location) or a vicinity map or sketch, the time, date and place of the closed record hearing, and the place where further information may be obtained.
- (7) The hearing may be continued to a date, time and place certain, without requiring additional public notice, as long as the requirements of the Open Public Meetings Act, Chapter 42.30 RCW, are met.
- (8) Closed record appeals and hearings shall be conducted in accordance with the Board's rules of procedure as set forth below and shall serve to provide argument and guidance for the Board's decision. Closed record appeals or hearings shall be conducted generally in the following order:
  - (a) Staff presentation.
  - (b) Appellant presentation.
  - (c) Respondent presentation (by parties of record only).
  - (d) Rebuttal or clarifying statements by staff and the appellant.
  - (e) Deliberations by the Board.
- (9) No new evidence or testimony shall be given or received. The parties to the appeal may submit written statements or arguments prior to the hearing.
- (10) The Board shall examine the record, the decision or recommendation and the arguments presented in the closed record hearing and select 1 of the following courses of action:
  - (a) Remand the matter for further consideration by the Hearing Examiner or the Planning Commission, depending on which entity made the decision or recommendation being reviewed.
  - (b) In the case of an appeal of a Level I or II decision, the Board may either deny the appeal and affirm the decision of the Hearing Examiner or, if the Board believes the Examiner's decision is clearly erroneous, the Board may adopt its own findings, conclusions and decision based upon the record made before the Hearing Examiner.
  - (c) In the case of a Level III recommendation:
    - (i) If the Board, upon review of the record, agrees with the recommendation of the Hearing Examiner or the Planning Commission, it shall approve the recommendation.
    - (ii) If the Board, upon review of the record, disagrees with findings, conclusions or recommendation of the Hearing Examiner or Planning Commission, the Board shall adopt its own findings and conclusions based on the record below and modify or deny the Level III permit. (Ord. 17938 Attch. F (part), 2000)

**14.06.180 Reconsideration.**

A party to a hearing before the Hearing Examiner may seek reconsideration only of a final decision by filing a written request for reconsideration at Planning and Development Services within 10 calendar days of the date of decision. The request shall set forth the specific errors alleged. The Hearing Examiner shall consider the request, without public comment or argument by the party filing the request. If the request is denied, the previous action shall become final. If the request is granted, the Hearing Examiner may revise and reissue its decision or may call for argument in accordance with the procedures for closed record appeals. Reconsideration should be granted only when a material legal error has occurred or a material factual issue has been overlooked that would change the previous decision. A request for reconsideration shall not be required, however, prior to exercising any rights to appeal. (Ord. O20070009 (part); Ord. 17938 Attch. F (part), 2000)

**14.06.190 Joint hearings.**

- (1) The County may combine any hearing on a development permit application with any hearing that may be held by another local, State, regional, Federal, or other agency; provided, that the hearing is held within the geographic boundary of the County.
- (2) Such hearings shall be combined if requested by an applicant as long as the joint hearing can be held within the time periods specified in RCW 36.70B.090 and this Chapter; or, the applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings. (Ord. 17938 Attch. F (part), 2000)

**14.06.200 Notice of decisions.**

- (1) Exemptions. A Notice of Decision shall not be required for:
  - (a) Boundary line adjustments.
  - (b) Short subdivisions.
  - (c) Building permits, flood area development permits or similar construction permits that are categorically exempt from SEPA, or for which SEPA review has previously been completed in connection with other development permits.
- (2) Whenever a final decision has been made that requires a Notice of Decision, the Administrative Official shall prepare the notice and include, at a minimum, the following information:
  - (a) The decision on the development permit.
  - (b) Any threshold determination made pursuant to Chapter 43.21C RCW.
  - (c) The procedure for any administrative appeal.
  - (d) The procedure for any judicial appeal if no administrative appeal is available.
- (3) The Notice of Decision may be a copy of the report or decision, if such report or decision contains the information required in Subsection (2) of this Section.
- (4) The Notice of Decision shall be provided to the applicant, to any parties of record, to any agencies with jurisdiction over the development permit or any agencies that commented on the development permit, and to any person who, prior to rendering the decision, has requested a copy of the Notice of Decision. For properties located within the URR, URC-I, URP-OS, A-UD, and MV-UD zones, the notice shall also be mailed to the city in whose UGA the property is located.
- (5) A copy of the Notice of Decision shall be sent to the County Assessor.
- (6) The Notice of Decision shall also be published in the official newspaper of the County. (Ord. O20050007 § 10 (part); Ord. 17938 Attch. F (part), 2000)

**14.06.210 Timing of decisions.**

- (1) In general, all development permit decisions shall be issued within 120 days of the date the letter of completeness is issued. Final decision on preliminary subdivisions and binding site plans shall generally be issued within 90 days from the date the letter of completeness is issued. Final decisions on final plats and short plats shall generally be issued within 30 days from the date the letter of completeness is issued.
- (2) If the County is unable to issue its final decision on a development permit within the time limits provided for in this Subsection, it shall provide written notice of this fact to the applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the Notice of Decision.
- (3) Exceptions to the time limits for a final decision include:

- (a) Development permit decisions that are dependent upon amendments to the Comprehensive Plan or development regulations, in which case the amendment shall be processed pursuant to Chapter 14.08 SCC, Legislative Actions, first; or
  - (b) Any time required to correct plans, perform studies or provide additional required information; provided, that within 14 days of receiving the requested additional information, the Administrative Official shall determine whether the information is adequate to resume the project review; and provided further, that the applicant shall be required to submit corrected plans, studies, or additional required information within 120 days of the written request or said application may be returned without prejudice; or
  - (c) 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; or
  - (d) Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW; or
  - (e) Projects involving the siting of essential public facilities; or
  - (f) Any period for administrative appeals of development permits if an open record appeal hearing or a closed record appeal, or both, are allowed. The time period for these administrative appeals shall not exceed:
    - (i) Ninety days for an open record appeal hearing.
    - (ii) Sixty days for a closed record appeal hearing. The parties to an appeal may agree to extend these time periods.
  - (g) Any remand to the hearing body.
- (4) The provisions of this Section notwithstanding, the failure to issue a final decision within the time frames specified shall not be considered an implicit approval or denial of the development permit, nor shall it be reason in and of itself for the County to be liable for damages for failure to meet the specified time frames. (Ord. 17938 Attch. F (part), 2000)

**14.06.220 Judicial appeals.**

- (1) The decision of the Board approving or disapproving a recommendation from the Hearing Examiner or the Planning Commission, or granting or denying any appeal from the Hearing Examiner shall be incorporated into a resolution or ordinance and shall be final and conclusive on the date of adoption of said resolution or ordinance for purposes of appeal pursuant to the Land Use Petition Act (Chapter 36.70C RCW).
- (2) A party must first exhaust all available administrative appeals prior to filing a judicial appeal.
- (3) Consistent with applicable law, any party filing a judicial appeal shall be responsible for paying the initial costs to prepare the record for filing with the Court. (Ord. O20050003 (part); Ord. 17938 Attch. F (part), 2000)

**14.06.230 Stay of proceedings.**

- (1) An administrative appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Official certifies to the hearing body after the Notice of Appeal is filed with him or her that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and/or property. In such case, proceedings shall not be stayed other than by direction of a court of competent jurisdiction.
- (2) Judicial appeals shall be governed by Chapter 36.70C RCW. (Ord. O20050003 (part); Ord. 17938 Attch. F (part), 2000)