

Ordinance No. 2992

An Ordinance Amending Various Provisions of the Anacortes Municipal Code and Adopting a New Title 19, Unified Development Code

Whereas, the Anacortes Municipal Code currently includes development regulations and permit processing procedures in Titles 15, 16, 17, and 18;

Whereas, the City Council desires to clarify and consolidate its development regulations and permit processing procedures in a single title to provide effective and efficient rules for the public and city staff;

Whereas, on November 28, 2016, the City Council adopted Ordinance 2991 relating to new standards for stormwater management to comply with the National Pollutant Discharge Elimination System permit issued by the Washington State Department of Ecology;

Whereas, through subsequent amendments the City plans to update its development regulations to implement the Comprehensive Plan and to move Titles 15, 16, and 17 into Title 19, Unified Development Code;

Whereas, on October 19, 2016, the City provided 60-day notice of intent to adopt these development regulations to the Department of Commerce;

Whereas, on November 23 and November 30, 2016, the Planning Commission held a public hearing on the proposal;

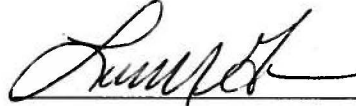
Whereas, on December 19, 2016, the City Council held a public hearing and deliberated on the proposal;

Now, therefore, the City Council of the City of Anacortes does ordain as follows:

- Section 1. The Anacortes Municipal Code is amended as shown in Attachment A.
- Section 2. Development permit applications submitted and deemed complete prior to the effective date of this ordinance are to be processed under the procedures in effect prior to these amendments. Where a procedure in effect prior to these amendments references the Board of Adjustment, the Hearing Examiner will be utilized in its place.
- Section 3. This ordinance takes effect five days after publication or on January 1, 2017, whichever is later.

PASSED and APPROVED this 19th day of December, 2016.

CITY OF ANACORTES:



Laurie Gere, Mayor

Attest:



Steve Hoglund, City Clerk-Treasurer

Approved as to Form:



Darcy Swetnam, City Attorney

Chapter 1.04 General Provisions

AMC Section 1.04.010 is amended as follows:

1.04.010 Definitions.

The following words and phrases, whenever used in the ordinances of the city of Anacortes, Washington, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words and phrases:

- A. – F. *No change.*
- G. "Must" and "shall" are each mandatory ~~except as to agents and employees of the city of Anacortes and any board authorized by city ordinances where discretion is involved, in which case "shall" and "must" are a direction and authorization to act in the exercise of sound discretion and in good faith.~~
- H. – T. *No change.*

AMC Section 1.04.070 is amended as follows:

1.04.070 Computation of time.

~~Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded.~~

- I. Except when otherwise provided, in computing any time period prescribed or allowed by this code, the day of the act, event, or default from which the designated time period begins to run is excluded. The last day of the period is included unless it is a Saturday, a Sunday, or a legal holiday, in which case the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a legal holiday. When the time period prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays are excluded from the computation.
- J. The legal holidays identified in RCW 1.16.050 are legal holidays for the purpose of this section.

Chapter 2.42 Planning Commission

2.42.010 Created.

There is created a planning commission of the city per RCW Chapter 35.63.

2.42.020 Membership.

There will be seven members of the commission, to be appointed by the mayor, by and with the consent of the city council. Members must be selected without respect to political affiliations and serve without compensation.

~~2.42.030 – Membership – City officer.~~

~~One of the members may be an officer of the city, and his membership shall correspond with his tenure of office.~~

2.42.040 Terms of office.

The terms of members ~~not city officers~~ will, after the expiration of the term of those first appointed, be for six years. The members first appointed will hold office as follows: two for two years; two for four years; and two for six years. Vacancies other than through expiration of terms must be filled for the unexpired terms. Members may be removed, after public hearing, by the mayor with the approval of the council for inefficiency, neglect of duty, or malfeasance in office.

2.42.050 Powers and duties.

The planning commission of the city will have all of the powers and perform each and all of the duties specified by ~~Chapter 44 of the Sessions Laws of 1935, together with any other duties or authority which may hereafter be conferred upon them by the laws of the state, the performance of such duties and the exercise of such authority to be subject to each and all the limitations expressed in such legislative enactment or enactments~~ AMC Title 19.

2.42.060 Organization.

The commission will elect its own chair~~man~~ and create and fill such other offices as it may deem necessary, and will hold at least one regular meeting in each month for not less than nine months of the year. It will adopt rules for the transaction of its business and will keep a written record of all of its proceedings, which record will be a public record.

2.42.070 ~~Service without compensation~~—Quorum.

~~The members of the commission will act without compensation.~~ Four members present and voting constitute a quorum.

15.20 Building Permits

AMC Chapter 15.20, Building Permits, is repealed.

15.32 Underground Utilities

AMC section 15.32.120, Variance procedure, is repealed.

16.04 General Provisions, Definitions, and Exemptions

AMC 16.04.104, Variances, exceptions and waiver of conditions, is repealed.

AMC 16.04.106, Complete application, is repealed.

16.08 Short Subdivisions and Short Plats

AMC 16.08.040, Appeals, is repealed.

16.10 Binding Site Plans

AMC 16.10.090, Approval Procedure, is repealed.

AMC 16.10.300, Appeals to the board of adjustment, is repealed.

16.12 Preliminary Plats for Standard Subdivision

16.12.020 Review Procedure, subsections A through D and subsections F through I are repealed, and the section is retitled "Approval Criteria."

16.16 Final Plats

16.16.030 Review Procedure is amended as follows:

16.16.030 ~~Review Procedure~~ Approval Criteria

~~A. When a final plat application meeting the requirements of this title has been submitted, the administrator shall transmit the original final plat application first to the planning commission and then to the city council for consideration within thirty days from the date of its submission unless the applicant consents to an extension of the time period for such review.~~

~~B.A. The planning commission and city council shall at their public meetings consider the final plat application. If the city council finds that the final plat meets the requirements as set out in the preliminary plat approval conditions, the final plat will be approved.~~

~~C. The city council shall act on the final plat within thirty days from submission of a complete application, unless the applicant consents to an extension of such time period.~~

16.24 Modifications and Exceptions

AMC 16.24.020 Procedure, is repealed.

16.28 Recreational Vehicle Parks

AMC 16.28.040, Grading and drainage, and AMC 16.28.100, Application procedure, is repealed. The remainder of this chapter is recodified as AMC 19.60.070, Recreational Vehicle Parks, with the modification below to AMC 16.28.090.

16.28.090 - ~~Commercial use~~ Retail sales.

No retail sales uses should be allowed within the park unless a specific site for such use, limited to park users, is approved by the city council as part of the conditional use permit.

16.40 Planned Unit Developments

AMC Chapter 16.40, Planned Unit Developments, is repealed.

17.04 General Provisions

AMC 17.04.010, Introduction, is repealed.

AMC 17.04.030, Enacting clause, is repealed.

AMC 17.04.070, Application submission and review procedures, is repealed.

AMC 17.04.080, Severability and savings provision, is repealed.

AMC 17.04.090, Consistency, is repealed.

17.06 Definitions

AMC 17.06.395, Home occupation, is repealed.

AMC 17.06.400, Home occupation signs, is repealed.

17.08 Administration

AMC Chapter 17.08, Administration, is repealed.

17.10 Board of Adjustment, Planning Commission, and Conditional Uses

AMC Chapter 17.10 is retitled "Restaurant Sidewalk Uses and Adult Concessions."

AMC 17.10.010-.060, regarding the Board of Adjustment, are repealed.

AMC 17.10.070-.090, regarding the Planning Commission, are repealed.

AMC 17.10.100-.130, regarding conditional uses, are repealed.

AMC 17.10.170, Accessory dwelling units, is repealed.

AMC 17.10.180, Procedure for accessory dwelling unit permits, is repealed.

17.14 Amendments and Rezones

AMC Chapter 17.14, Amendments and Rezones, is repealed.

17.44 Planned Unit Development and Cottage Housing

AMC Chapter 17.44, Planned Unit Development and Cottage Housing, is repealed.

17.46.020 Parking

AMC 17.46.010.D is amended as follows:

~~For~~ uses not specifically mentioned herein, the decision maker must determine the off-street parking requirement ~~shall be fixed by the planning commission~~ based generally on the requirements for similar uses.

AMC 17.46.020 is amended as follows:

The minimum number of off-street parking shall be determined in accordance with the following table, ~~except where the minimum number of off-street parking spaces is varied by the planning commission (appealable to city council) with a documented finding that the overall parking situation in the project vicinity will not be adversely affected.~~ One bicycle rack space shall be provided for every five parking spaces.

[No changes to table or remainder of the section.]

17.60 Nonconforming Uses

AMC Chapter 17.60, Nonconforming Uses, is repealed.

17.62 Public Hearings

AMC Chapter 17.62, Public Hearings, is repealed.

17.70 Critical Area Regulations

AMC 17.70.050.D(1) is revised to read:

1. ~~Appeal Board.~~ Variances to this chapter must be processed according to the procedures in Title 19.

AMC 17.70.050(D)(a) – (f) relating to the board of adjustment is repealed.

17.75 Essential Public Facilities

AMC 17.75.040, Procedure, is repealed.

AMC 17.75.060.B.2 is revised to read:

Type Two Facilities. Type Two essential public facilities shall be required to provide a notice of application ~~as required by AMC [Section] 17.04.070.~~

AMC 17.75.060.C.2 is repealed.

AMC 17.75.060.F.2 is revised to read:

The proposal complies with applicable requirements of ~~Chapter 17.10.100~~ AMC Chapter 19.36 Conditional Uses and all other applicable provisions of the City Code;

18.04 State Environmental Policy Act

Modify only the following section:

18.04.250 Appeals

~~D.B. _____ The city elects not to have an agency administrative appeal.~~ Appeals of SEPA threshold determinations are processed per AMC Title 19.

~~E.C.~~ The city shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

18.16 Shoreline Master Plan

The following sections of AMC Chapter 18.16 are amended as follows:

18.16.050 - Table of permits and procedures.

Table 1 below classifies shoreline development permits by procedure type, decision maker, and type of public notice.

Table 1

Permit Application	Decision maker	Public Notice	Notes
Shoreline Substantial Development Permits	Planning Commission or City Council As provided in Section 18.16.100(B)(2)	a. Mailed to property owners w/in 300 ft. b. Posted on-site c. Published notice	See Section 18.16.040 for definition and approval criteria.
Conditional Use Permits	Planning Commission or City Council As provided in Section 18.16.100(B)(2) Department of Ecology	a. Mailed to property owners w/in 300 ft. b. Posted on-site c. Published notice	See Section 9.1 of the Shoreline Master Program for definition and approval criteria. After local government approval, the permit is submitted to the Department of Ecology for the department's approval, approval with conditions, or denial WAC 173-27-110.
Variances	Planning Commission or City Council As provided in Section 18.16.100(B)(2) Department of Ecology	a. Mailed to property owners w/in 300 ft. b. Posted on-site c. Published notice	See Section 9.2 of the Shoreline Master Program for definition and approval criteria. After local government approval, the permit is submitted to the Department of Ecology for the department's approval, approval with conditions, or denial WAC 173-27-110.

18.16.100 - Administrative authority and responsibility.

F.D. Shoreline Administrator. The shoreline administrator is vested with the following authority and responsibility:

1. Overall administrative responsibility for this master program.
2. Authority to grant written permit exemptions from shoreline substantial development permit requirements of this master program.
3. Authority to [approve or](#) recommend ~~to the planning commission~~ approval, approval with conditions, or denial of applications for shoreline ~~substantial development~~ permits and permit revisions in accordance with the policies and regulations of this master program [consistent with AMC](#) Chapter 19.20 Application Procedures. Chapter 19.20 Application Procedures.
4. Advising interested citizens and project proponents of the goals, policies, regulations and procedures of this master program.
5. If a nonconforming use is discontinued for a period of twelve months in any consecutive two-year period, it shall lose its nonconforming status, and the continued use of the property shall be required to conform to the provisions of this master program and the Act.

~~G.E. The decision maker per AMC 19.20.030 Types of Review is authorized to approve, approve with conditions, or deny shoreline permits consistent with the procedures in AMC Chapter 19.20 Application Procedures is authorized to approve, approve with conditions, or deny shoreline permits consistent with the procedures in AMC Planning Commission/City Council. The planning commission/city council Chapter is vested with the following authority: 19.20 Application Procedures.~~

- ~~1. Authority to approve, approve with conditions, or deny shoreline substantial development permits, variance permits, and conditional use permits after considering the findings and recommendations of the shoreline administrator at an open record public hearing.~~

~~For each shoreline substantial development/conditional use/variance permit application an open record public hearing shall be held before the planning commission. For project improvements valued at less than one million dollars on project sites less than three acres in size, the planning commission may approve, approve with conditions, or deny the permit unless an appeal of the planning commission's action is filed. Any aggrieved party shall have five working days from the date of the action to appeal the action of the planning commission to the city council. The appeal shall be in writing and is to be filed with the city clerk. After considering the record and any appeal, the city council shall decide whether to grant, deny, or grant the permit with conditions, and shall issue a written decision. If an appeal is filed by an aggrieved party, this appeal shall be a closed record appeal to the city council who shall decide the matter. For project improvements valued at one million dollars or more or for project sites three acres or more in size, the city council shall decide in a closed record appeal format upon recommendation of the planning commission. The planning commission shall record their recommendations, their reasons for recommendation, and any conditions recommended to be placed on the application. This record is to be sent to the city council.~~

New Title 19 Unified Development Code

Abbreviated Table of Contents:

Division 1 General and Legislative Provisions	15
Chapter 19.10 General Provisions	15
Chapter 19.12 Definitions and Interpretation	16
Chapter 19.14 International Codes	19
Chapter 19.16 Legislative Actions	20
Division 2 Procedures.....	26
Chapter 19.20 Application Procedures	26
Chapter 19.22 Concurrency	41
Chapter 19.24 Public Improvements	41
Chapter 19.28 Permit Revision and Expiration	42
Division 3 Permits	43
Chapter 19.32 Land Divisions.....	43
Chapter 19.34 Boundary Line Adjustments	44
Chapter 19.36 Conditional Uses	44
Chapter 19.38 Variances	45
Division 4 Zoning & Land Uses	46
Chapter 19.40 Zoning.....	46
Chapter 19.42 Uses	47
Chapter 19.44 Supplemental Use Criteria	47
Chapter 19.49 Nonconforming Uses and Structures	50
Division 5 Community Design	51
Division 6 Project Design.....	52
Division 7 Environment	52
Chapter 19.70 Critical Areas	52
Chapter 19.72 Shorelines.....	52
Chapter 19.76 Stormwater	52
Chapter 19.78 Clearing and Grading.....	52
Division 8 Development Agreements	52

Chapter 19.80 Development Agreements	52
Chapter 19.82 Development Agreement with Port.....	52

Detailed Table of Contents:

Division 1 General and Legislative Provisions	15
Chapter 19.10 General Provisions	15
19.10.010 Purpose.	15
19.10.020 Applicability	15
19.10.030 Administration	15
19.10.040 Fees and costs.....	15
19.10.070 No special duty created.	15
19.10.080 Savings.	15
19.10.090 Severability.....	16
Chapter 19.12 Definitions and Interpretation	16
19.12.020 Definitions.....	16
19.12.040 Rules of interpretation.....	18
19.12.060 Supremacy.	19
19.12.080 Administrative Interpretation.....	19
Chapter 19.14 International Codes.....	19
Chapter 19.16 Legislative Actions.....	20
19.16.010 Purpose.	20
19.16.020 Applicability.	20
19.16.030 General requirements.....	20
19.16.040 Petitions.	21
19.16.050 Docketing.	21
19.16.060 Environmental review of docket.....	22
19.16.070 Public notices.	23
19.16.080 Review by Planning Commission.	23
19.16.090 Review by City Council.	25
19.16.100 Final Disposition of Annual Docket.	25

19.16.110 Emergency or interim regulations.	26
Division 2 Procedures.....	26
Chapter 19.20 Application Procedures	26
19.20.010 Policy.....	26
19.20.020 Applicability	26
19.20.030 Types of Review	26
19.20.040 Consolidated review.	30
19.20.050 Eligibility for permits.....	30
19.20.060 Lots of record.	30
19.20.070 Vesting.	31
19.20.090 Requirements for public notices.....	31
19.20.110 Pre-application conference.....	32
19.20.120 Pre-application neighborhood meeting.....	32
19.20.130 Application—contents and completeness—revisions	33
19.20.140 Application—notice.	35
19.20.150 Application—department review.	36
19.20.160 Public hearings and meetings	36
19.20.170 Public hearing—notice.....	37
19.20.180 Decision—timing.....	37
19.20.190 Decision—notice.	38
19.20.210 Appeals.....	39
19.20.220 Remand.	40
19.20.230 Reconsideration.	40
19.20.240 Exhaustion of administrative remedies.	41
Chapter 19.22 Concurrency	41
Chapter 19.24 Public Improvements	41
19.24.100 Public Improvements—Design Standards.	41
19.24.120 Public Improvements—Requirement.	41
Chapter 19.28 Permit Revision and Expiration	42
19.28.010 Permit Revision.	42
19.28.020 Permit Expiration.	42

Division 3 Permits	43
Chapter 19.32 Land Divisions.....	43
Chapter 19.34 Boundary Line Adjustments	44
Chapter 19.36 Conditional Uses	44
19.36.010 Purpose.	44
19.36.020 Applicability.	44
19.36.030 Application requirements.	44
19.36.040 Criteria.	44
19.36.050 Conditions authorized.....	45
Chapter 19.38 Variances	45
19.38.010 Purpose.	45
19.38.020 Applicability.	45
19.38.030 Variance levels.	46
19.38.040 Criteria.	46
Division 4 Zoning & Land Uses	46
Chapter 19.40 Zoning.....	46
Chapter 19.42 Uses	47
19.42.010 Generally.....	47
Chapter 19.44 Supplemental Use Criteria	47
19.44.010 Generally.....	47
19.44.020 Accessory Dwelling Units	47
19.44.030 Adult Concessions	48
19.44.040 Bed and Breakfasts	48
19.44.050 Essential Public Facilities.....	49
19.44.055 Home Occupations.....	49
19.44.060 Marijuana Producers, Processors, and Retailers	50
19.44.070 Recreational Vehicle Parks.....	50
19.44.080 Schools	50
19.44.090 Telecommunications Facilities.....	50
Chapter 19.49 Nonconforming Uses and Structures	50
19.49.010 Intent.....	50

19.49.020 General rule.	50
19.49.030 Enlargement, Alteration, Expansion or Change of Nonconforming Uses.....	50
19.49.040 Enlargement, Alteration, Reconstruction of Nonconforming Buildings and Structures. ..	51
19.49.050 Abandonment.	51
Division 5 Community Design	51
Division 6 Project Design.....	52
Division 7 Environment.....	52
Chapter 19.70 Critical Areas	52
Chapter 19.72 Shorelines.....	52
Chapter 19.76 Stormwater	52
Chapter 19.78 Clearing and Grading.....	52
Division 8 Development Agreements	52
Chapter 19.80 Development Agreements	52
Chapter 19.82 Development Agreement with Port.....	52

Division 1 General and Legislative Provisions

Chapter 19.10 General Provisions

19.10.010 Purpose.

The purpose of this Title is to implement the Comprehensive Plan and state laws related to land use and development in a manner that is clear, concise, and understandable. It is also intended to comply with state rules for combining and expediting development review and integrating environmental review and land use development plans.

19.10.020 Applicability

This Title is applicable to all land and land uses within the corporate limits of the City of Anacortes, and the City's urban growth area, except as pre-empted by law or interlocal agreement. All city departments, and the City itself, are subject to this Title.

19.10.030 Administration

The Director has the duty to administer and enforce AMC Titles 16, 17, 18, and 19.

19.10.040 Fees and costs.

- A. The City Council may, by resolution, adopt a schedule of fees for permit applications and appeals. Per RCW 82.02.060, impact fees must be adopted by ordinance.
- B. The cost of postings, mailings, and publications must be paid for by the applicant.

19.10.070 No special duty created.

- A. It is the purpose of this title to provide for the health, welfare, and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this title.
- B. Nothing contained in this title is intended to be nor may be construed to create or form the basis for any liability on the part of the city or its officers, agents, and employees for any injury or damage resulting from the failure of any premises to abate a nuisance or to comply with the provisions of this title or be a reason or a consequence of any inspection, notice or order, in connection with the implementation or enforcement of this title, or by reason or a consequence of any inspection, notice or order, in connection with the implementation or enforcement of this title, or by reason of any action of the city related in any manner to enforcement of this title by its officers, agents or employees.

19.10.080 Savings.

Nothing contained in this title may be construed as abating any action now pending under or by virtue of any ordinance of the city herein repealed, or as discontinuing, abating, modifying, or altering any penalty accrued or to accrue, or as affecting liability of any person, firm or corporation, or as waiving any

right of the city under any ordinance or provision thereof in force at the time of passage of the ordinance codified in this title.

19.10.090 Severability.

If any provision of this title is declared unconstitutional or invalid by any court of competent jurisdiction, it must be conclusively presumed that this title would have been enacted without the provision so held unconstitutional or invalid, and the remainder of this title must not be affected as a result of any part being held unconstitutional or invalid.

Chapter 19.12 Definitions and Interpretation

19.12.020 Definitions.

The following definitions are added to this section:

The following definitions apply to this title; other definitions may be found in individual chapters:

“Accessory dwelling unit (ADU)” means a second dwelling unit, that has separate kitchen, sleeping, and bathroom facilities, and is attached or detached from the primary residential unit on a lot.

“Appellant” means a person who files a complete and timely appeal of a city decision.

“Appellate body” means that officer or body prescribed by this Title as having the authority to hear the appeal of a development permit.

“Applicant” means a person seeking development or permit approval from the City.

“AMC” means the Anacortes Municipal Code.

“Boundary line adjustment” means the adjustment of a boundary line between existing lots.

“Burden of proof” means a party’s duty to prove an assertion or charge.

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

“Comprehensive Plan” means the City’s Comprehensive Plan adopted pursuant to RCW Chapter 36.70A.

“Comprehensive Plan amendment” means an amendment or change to the text or maps of the Comprehensive Plan.

“Conditional use” or “CUP” means a use that may be restricted as a condition of approval.

“Day” means calendar day, not business day, unless otherwise specified. But see AMC 1.04.070, Computation of time.

“Decision” means the written report of findings and conclusions issued by the decision-maker.

“Decision-maker” means that officer or body prescribed by this Title as having the authority to approve, approve with conditions, or deny a development permit or hear an appeal and issue a revised decision.

“Department” means the City of Anacortes Department of Planning, Community, and Economic Development.

“Development” means any land use, activity, or project regulated by AMC Titles 13, 16, 17, and 18, including but not limited to building permits, subdivisions, binding site plans, rezones, conditional use permits, shoreline permits, short plats, or variances.

“Development permit” means a permit or approval for a development, and includes project permits per RCW 36.70B.020.

“Director” means the Director of the Department or the Director’s designee.

“Effective date” means the date a final decision becomes effective.

“Family” means:

- A. One person or two or more related persons living together.
- B. No more than five unrelated persons living together as a single nonprofit housekeeping unit.
- C. Unrelated persons living together in a state licensed adult family home pursuant to RCW 70.127.010, with the provider’s family counting as up to six persons not related to the providers living with them as one housekeeping unit for profit.
- D. In a single-family dwelling, one roomer or boarder is permitted in addition to the family.

“Final decision” means the final City action, in writing, to approve, approve with conditions, or deny a permit application.

“Home Occupation” means any activity undertaken for financial gain or profit and carried on in a dwelling, or building accessory to a dwelling.

“Lot of record” means a lot which is described by a final plat, short plat, or metes and bounds, and is established consistent with applicable local and state regulations at the date a legal instrument creating the lot is recorded at the Skagit County auditor’s office.

“Nonconforming” or “pre-existing nonconforming” means a use or structure that was legally established when it was commenced or constructed but does not conform to laws or rules that were subsequently adopted.

“Open record hearing” means a hearing conducted by a single hearing body or officer authorized by the city to conduct such hearings, that creates the city’s record through testimony and submission of evidence and information, under procedures prescribed by the city by ordinance or resolution.

“Open record predecision hearing” means an open record hearing held prior to the City’s decision on a project permit.

“Open record appeal hearing” means an open record hearing held on an appeal if no predecision hearing has been held on the project permit.

“Party of record” means a person who has testified at a public hearing, or submitted a written statement related to an application within the allowed timeframe, and who provides the City with a complete mailing address.

“Plat” means a scale drawing of a subdivision showing lots, blocks, streets, or tracts, or other division or dedications of land to be subdivided.

“Plat, final” means a precise scale drawing of a subdivision and dedications which conforms to the approved preliminary plat, meets all the conditions of approval, and meets the requirements of the Skagit County Auditor for recording.

“Plat, final short” means a precise scale drawing of a short subdivision and dedications which conforms to the approved preliminary short plat, meets all conditions of approval, and meets the requirements of the Skagit County Auditor for recording.

“Plat, preliminary” means a neat and approximate scale drawing of a proposed subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks, and other information needed to properly review the proposal.

“Plat, preliminary short” means a neat and approximate scale drawing of a proposed short subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks, encumbrances, encroachments, and other information needed to properly review the proposal.

“Plat, short” means the plat of a short subdivision.

“Rezone” means an amendment which changes the use classifications and/or boundaries upon the official zoning map.

“Shoreline permit” means a shoreline substantial development permit, shoreline conditional use permit, or shoreline variance issued pursuant to the City’s Shoreline Master Program.

“Site plan” means a map or representation of a site showing thereon the location of various features of a particular proposal, such as setbacks, buildings, parking areas, and other items.

“Site plan, binding” means a site plan reviewed and approved pursuant to AMC Titles 16 and 17 and AMC Chapter 16.10, containing the inscriptions or attachments setting forth the limitations and conditions of use for a specific parcel of property and meeting the requirements of the Skagit County Auditor for recording.

“Standard of review” means the amount of deference given by an appellate body in reviewing a decision of a lower decision-maker.

“Subdivision, short” means the division or redivision of land into nine or fewer lots for the purpose of sale, lease, or transfer of ownership.

“Subdivision” means the division or redivision of land into ten or more lots for the purpose of sale, lease, or transfer of ownership.

“Substandard lot” means a lot that does not meet current city standards for area, width, street frontage, or other dimensional characteristics for the zone in which it is located.

“Variance” means an adjustment from a dimensional or numeric standard of Title 17 or 19 issued per AMC Chapter 19.38 Variances.

19.12.040 Rules of interpretation.

- A. Within this title, all words used have their normal and customary meanings, unless specifically defined otherwise in this title.
 - 1. Words used in the present tense include the future.
 - 2. The plural includes the singular and vice versa.

- B. Distances are measured horizontally unless otherwise specified.
- C. Interpretations of this code must be consistent with the Comprehensive Plan.
- D. Interpretations related to uses in each zone should be based on the “purpose” section of each zone.
- E. Where two applicable rules conflict within this title, the most restrictive controls.

19.12.060 Supremacy.

In the event of a conflict between provisions of this title and AMC Title 13, 16, or 17, the provisions of this title control. In the event of a conflict between provisions of this title and AMC Chapter 18.16, Shoreline Master Plan, the provisions of AMC Chapter 18.16 control.

19.12.080 Administrative Interpretation.

- A. Consistent with RCW 36.70B.110(11), any person may submit a written request for an interpretation of this title. Any such request must:
 - 1. specify each code section for which an interpretation is requested;
 - 2. describe why an interpretation of each section is necessary;
 - 3. include any reasons or material in support of a proposed interpretation;
 - 4. include any fee established by the City Council for such requests.
- B. If the interpretation request is associated with a pending application for a development permit, the Director may consolidate the request with the process for review of the application. If the Director does not consolidate the request with an application, the Director must issue an interpretation within 60 days of receipt of the request and publish it to the City website.
- C. In making an interpretation, the Director must consider all of the following:
 - 1. the applicable provisions of the code including their purpose and context;
 - 2. the applicable provisions of the Comprehensive Plan and other relevant codes and policies;
 - 3. the impact of the interpretation on other provisions of the AMC;
 - 4. the implications of the interpretation for development within the City as a whole.
- D. The Director may respond to inquiries regarding the applicability and interpretation of various code provisions prior to or outside the context of a formal request for an administrative interpretation.
- E. An administrative interpretation is not binding on the Director or City, nor appealable, but the decision-maker on a relevant development permit application may treat an interpretation as persuasive authority.

Chapter 19.14 International Codes

AMC Chapter 15.05, Building Code, is recodified as AMC Chapter 19.14, International Codes.

Chapter 19.16 Legislative Actions

19.16.010 Purpose.

This Chapter establishes a program and process for early and continuous public participation for land use legislation consistent with RCW Chapter 36.70A, the Growth Management Act.

19.16.020 Applicability.

- A. This Chapter applies to adoption and amendment of any of the following legislative matters:
 - 1. the Comprehensive Plan;
 - 2. the Comprehensive Plan land use map;
 - 3. implementing development regulations.
- B. This Chapter does not apply to any of the following quasi-judicial matters:
 - 1. development permit applications;
 - 2. rezones permitted by an existing Comprehensive Plan designation that do not require a simultaneous amendment to the Comprehensive Plan.
- C. This Chapter does not apply to any of the following legislative matters:
 - 1. adoption and amendment of international and uniform codes such as the International Building Code, International Fire Code, or other codes required by the State of Washington;
 - 2. adoption of regulations governing impact fees, development agreements, and amendment of this Chapter;
 - 3. adoption of technical appendices to the Comprehensive Plan that do not contain Comprehensive Plan goals or policies, such as the six-year capital facilities financing plan.

19.16.030 General requirements.

- A. All amendments to the Comprehensive Plan policies, Comprehensive Plan land use map, or development regulations require:
 - 1. a public hearing;
 - 2. review and recommendation by the Planning Commission; and
 - 3. final approval by ordinance.
- B. For amendments to the Comprehensive Plan policies or land use map, the City must:
 - 1. docket amendments per AMC 19.16.050; and
 - 2. adopt all amendments simultaneously each year; and
 - 3. may not adopt amendments more frequently than once per year except for amendments that qualify for one of the exceptions in RCW 36.70A.130(2)(a).
- C. For amendments to the development regulations, the City may:
 - 1. accept petitions for development regulation amendments as part of the annual docketing process; or

2. itself initiate the process of adopting or amending development regulations at any time.

19.16.040 Petitions.

- A. Types of petitions. A petition is one or more of the following types:
 1. an amendment to the Comprehensive Plan policies;
 2. an amendment to the Comprehensive Plan land use map (which requires a simultaneous rezone);
 3. an amendment to the development regulations.
- B. When to file.
 1. A petition must be submitted on or before the last business day of March, except that a City-initiated petition is not subject to this deadline.
 2. A petition for a rezone or map amendment may be considered only once between each Comprehensive Plan Periodic Update unless the applicant demonstrates a substantial change in circumstances. A petition for the same property may not be considered in consecutive years.
- C. How to file.
 1. A petition must be filed with the Department on forms provided by the Department.
 2. A petition must be filed with all fees required by the adopted fee schedule.
 3. A City-initiated petition does not require a written petition or fees.
- D. Contents of petition. A petition for amendment of the Comprehensive Plan or the development regulations must include the following:
 1. a detailed statement of what is proposed to be changed and why;
 2. a statement of anticipated impacts to be caused by the change, including geographic area affected and issues presented;
 3. a demonstration of why the proposal is needed;
 4. a statement of how the amendment is consistent with the Comprehensive Plan's vision and goals.
- E. A petition for a rezone or amendment of the Comprehensive Plan map must also include a detailed description of how the map amendment complies with:
 1. the land use designation criteria in the Comprehensive Plan; and
 2. approval criteria for map amendments and rezones.

19.16.050 Docketing.

- A. The Department must review all new petitions and any petitions deferred from the previous year's docket, and forward a recommendation to the City Council as to which petitions should be included in the next year's docket.
- B. In making its docket recommendation, the Department must consider whether:

1. the petition complies with the filing requirements;
 2. the petition, in light of all proposed amendments being considered for inclusion in the year's docket, can be reasonably reviewed within the staffing and operational budget allocated to the Department by the City Council;
 3. the proposed amendment, to be adopted, would not require additional amendments to the Comprehensive Plan or development regulations not addressed in the application, and is consistent with other goals, objectives and policies adopted by the City Council;
 4. the proposed amendment raises policy, land use, or scheduling issues that would more appropriately be addressed as part of an ongoing or planned work program, or as part of the periodic review cycle;
 5. some legal or procedural flaw in the petition would prevent its legal implementation; or
 6. the petition lacks sufficient information or adequate detail to review and assess whether or not the proposal meets the applicable approval criteria. A determination that the proposal contains sufficient information and adequate detail for the purpose of docketing does not preclude the Department from requesting additional information at any later time.
- C. Following receipt of the Department's docket recommendation, the City Council must hold a public hearing to allow applicants and the public to comment on the Department's recommendation. The City Council must subsequently consider the Department's recommendation and the public comment and decide which petitions to include as part of the annual docket.
- D. The City Council must include, exclude, or defer each petition.
1. Include. The City Council's decision to include a petition in the docket is procedural only and does not constitute a decision by the City Council as to whether the amendment will ultimately be approved.
 2. Exclude. The City Council's decision to exclude a petition from the docket terminates the petition.
 3. Defer. The City Council's decision to defer a petition means the City Council will consider the petition for docketing in the next annual amendment cycle.
- E. The petitions included in the docket must be processed according to the remaining sections of this Chapter, including public review and comment and Planning Commission recommendation, and final City Council action to approve, approve with modifications, defer to a subsequent amendment cycle, or deny each petition.

19.16.060 Environmental review of docket.

- A. After the Council establishes the year's docket of Comprehensive Plan amendments, the City must complete environmental review of all of the proposed amendments, consistent with the requirements of RCW Chapter 43.21C and AMC Chapter 18.04. For a site-specific Comprehensive Plan amendment, the applicant must submit a complete environmental checklist, required fees, and any other supporting information required by the Department.

- B. After receipt and review of the environmental checklist(s) for each of the docketed Comprehensive Plan amendments, the Department must issue threshold determination(s) on the docket of amendments.
- C. Any environmental review must consolidate, as much as practical, site-specific SEPA review with review of the entire docket of proposed Comprehensive Plan amendments to ensure adequate consideration of cumulative effects of the proposed amendments.
- D. A petition that is carried over from a previous year's docket to the next docket does not require a new SEPA checklist and fee, and is not required to be considered in the same environmental document as other proposals in the same docket. However, the Department may require additional SEPA analysis to assess the cumulative impacts of the various proposals constituting a docket.

19.16.070 Public notices.

- A. All public hearings and written comment periods that appear in this Chapter require public notice.
- B. Consistent with RCW 36.70A.035(1), "public notice" whenever it appears in this Chapter includes all of the following:
 - 1. publishing a native electronic copy of the document on the proposal's webpage on the Department's website;
 - 2. sending notice to the Department's e-mail list, including general lists or relevant lists for specific proposals or subject areas;
 - 3. publishing a paid notice in the City's official newspaper.
- C. For site-specific proposals (e.g. site-specific Comprehensive Plan map amendments), the initial "public notice" of a proposal also includes all of the following:
 - 1. posting notice on the property;
 - 2. mailing notice directly to the owners of the subject property and to all property owners within 300 feet of the subject property.
- D. Notices must include all of the following:
 - 1. a concise description of the proposal in plain English;
 - 2. information on how to provide comment on the proposal;
 - 3. deadlines for public comment;
 - 4. address of the project webpage.

19.16.080 Review by Planning Commission.

- A. Public Hearing.
 - 1. After environmental review, the Planning Commission must hold at least one public hearing before issuing a recommendation on each proposal.
 - 2. If necessary due to the number of people present to comment, the Planning Commission may continue the public hearing to another date, time, or location.

B. Deliberations.

1. Required consideration. The Planning Commission must consider the following in making its recommendation:
 - a. public hearing testimony and written comment received during any public comment period;
 - b. recommendations and analysis from relevant City advisory groups;
 - c. staff recommendations and analysis;
 - d. legal advice;
 - e. consistency of the proposal with the Comprehensive Plan;
 - f. for proposed Comprehensive Plan map changes, whether the proposal is justified by changed or changing conditions, whether the proposal would create an isolated land use designation unrelated to adjacent designations (a spot zone), and whether the proposal will be compatible with neighboring properties and not adversely affect the value of those properties.
2. Ability to ask follow-up questions. The Planning Commission may ask specific follow-up questions of those that testify or submit written comments in order to clarify their testimony or request specific further information.
3. Ability to continue deliberations. The Planning Commission may continue their deliberations to a subsequent meeting if it needs additional information or additional time to deliberate.

C. Recommendation to City Council.

1. Timing. At the conclusion of its deliberations, the Planning Commission must vote on the proposal.
2. Vote. The Planning Commission may vote to recommend approval, approval with modifications, or rejection of the proposal. The Planning Commission may recommend general modifications to the proposal and need not provide explicit textual edits.
3. Content. The Planning Commission's recommendation on a proposal must be by recorded motion, which must contain the following components:
 - a. Findings of fact: a list of facts that the Planning Commission believes to be true and that are relevant to its recommendation on the proposal.
 - b. Reasons for action: an explanation of the Planning Commission's rationale in making its recommendation.
 - c. Recommendation: the recommendation resulting from the vote.
 - d. Vote: a record of the roll call vote on the entire recorded motion.
 - e. Additional comments: other relevant comments, suggestions, or recommendations, not strictly related to the recommendation, that the Planning Commission desires to include.
 - f. Signature of the chair attesting that the recorded motion reflects the Planning Commission's decision.

19.16.090 Review by City Council.

- A. Upon receipt of the Planning Commission's recommendation, the City Council must consider and take action on the recommendation.
- B. The City Council may take final action with no further process in any of the following situations:
 - 1. when the plan, plan amendment, or development regulation to be adopted by the City Council conforms substantially to the proposal as made available for public comment;
 - 2. pursuant to RCW 36.70A.035, when any of the following are true:
 - a. An environmental impact statement (EIS) has been prepared under RCW Chapter 43.21C for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;
 - b. The proposed change is within the scope of the alternatives available for public comment;
 - c. The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;
 - d. The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or
 - e. The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.
 - 3. when the action is to preserve the status quo and reject any and all changes in their entirety.
- C. Except as provided in subsection B, the City Council must allow additional public comment opportunity prior to final action. The City Council must choose one or more of the following options to provide such opportunity:
 - 1. an additional written public comment period;
 - 2. one or more public hearings before the City Council;
 - 3. remand of issue(s) to the Planning Commission for further recommendations after an additional written public comment period, or an additional public hearing, or both.
- D. If the City Council adopts a substantial change from the original proposal without remand, it must adopt its own findings of fact and reasons for action, setting forth the factors considered in the public comment or at the hearing and its own analysis of findings considered by it to be controlling.

19.16.100 Final Disposition of Annual Docket.

- A. The City Council must take action (approve, deny, or defer) on the current year's docket before establishing a subsequent docket.
- B. The City Council may defer action on any specific plan or plan amendment to a future docket if:
 - 1. Additional time is needed to analyze the impacts of the proposal;

2. Retaining the proposal on the docket would unfairly delay action on other proposals that are otherwise ready for a decision;
3. Approval of the proposal depends on the implementation of other rules, standards or policies that either do not exist or are not official by the time the City Council is ready to make its decision on the annual docket; or
4. The City Council determines that the proposed plan or plan amendment is more appropriately considered during a subsequent amendment process.

19.16.110 Emergency or interim regulations.

The provisions of RCW 36.70A.390 for emergency or interim maps or regulations or moratoria, if applicable, supersede the requirements of this Chapter.

Division 2 Procedures

Chapter 19.20 Application Procedures

19.20.010 Policy

This Chapter establishes standard procedures for review of development permit applications and appeals. These procedures are designed to promote timely and informed public participation, eliminate redundancy in the process, minimize delay and expense, and result in approvals that further the goals and policies of the Comprehensive Plan. These procedures are intended to be consistent with the provisions of RCW Chapter 36.70B and integrate the land use permit process with the environmental review process.

19.20.020 Applicability

- A. This Chapter applies to all applications and all development permits issued per AMC Titles 16, 17, and 19.
- B. Exemptions. Consistent with RCW 36.70B.140, the following permits are exempt from the procedural requirements of this chapter:
 1. sidewalk use permits;
 2. development agreements;
 3. final approval of short subdivisions and subdivisions.
 4. landmark designations and street vacations.

19.20.030 Types of Review

- A. Decisions on applications are governed by several types of review processes, described and distinguished in this section. The types of review are generally organized in ascending order of significance, amount of public process, and level of discretion exercised by the decision maker.

- B. The Director must determine the proper review type for all permit applications. If there is a question as to the appropriate type of process, the Director must resolve it in favor of the higher type number. A Type 3-PC review is considered a higher level than a Type 3-HE review.
- C. Table 19.20.030-1 identifies the types of review for all applications, and describes the process for each type of review.
 - 1. The types of applications that are subject to each type of review are listed in the column immediately beneath the heading for each type.
 - 2. The processes required for each type of review is further described by the remainder of the column beneath the heading for each type.
 - 3. The remainder of this Chapter describes the required processes for each type of review.

Table 19.20.030-1. Review Classification and Process Matrix

Types of Review	Type 1 Administrative Ministerial Actions	Type 2 Administrative Decisions	Type 3-HE Hearing Examiner Decisions	Type 3-PC Planning Commission Decisions	Type 4 City Council Decisions
Types of Applications	<ul style="list-style-type: none"> ▪ Accessory dwelling units ▪ Building, mechanical, and plumbing permits ▪ Clearing and grading permits ▪ Extension of time for approval ▪ Shoreline exemptions ▪ Minor permit revisions ▪ Wireless Telecommunication uses in AMC 17.63.060 	<ul style="list-style-type: none"> ▪ Administrative conditional use permits, including home occupation permits ▪ Binding site plans ▪ Boundary line adjustments ▪ Level 1 variances ▪ Preliminary short subdivisions ▪ SEPA threshold determinations ▪ Stormwater Management Manual adjustments and exceptions 	<ul style="list-style-type: none"> ▪ Special use permits for towers or antennas ▪ Level 2 variances 	<ul style="list-style-type: none"> ▪ Shoreline Substantial Development Permits (SSDP) for projects valued less than \$1 million on site less than 3 acres ▪ Shoreline Conditional Use and Variance Permits ▪ Special use and reasonable use permits per AMC Chapter 17.70 ▪ Any other applications identified as “conditional uses” in AMC Title 17 	<ul style="list-style-type: none"> ▪ Conditional use permits, except administrative CUPs ▪ Essential Public Facilities, type 1 and 2 ▪ Manufactured home subdivisions ▪ Preliminary long subdivisions ▪ Modifications & exceptions per AMC Chapter 16.24 ▪ Site-specific rezones authorized by the comprehensive plan ▪ Shoreline Substantial Development Permits (SSDP) for projects valued at \$1 million or more or on site of 3 acres or more
Pre-Application Conference	At discretion of Director	At discretion of Director	Yes	Yes	Yes
Pre-Application Neighborhood Meeting	No	No, except for short subdivisions at discretion of Director	Yes	Yes	Yes
Notice of Application	No	Yes	Yes	Yes	Yes
Comment Period	None	14 days	21 days	21 days (30 for shoreline permits)	21 days (30 for shoreline permits)
Recommendation By	None	None	Director	Director	Planning Commission
Pre-Decision Open-Record Public Hearing	No	No	Yes, before Hearing Examiner	Yes, before Planning Commission	Yes, before Planning Commission
Closed-Record Decision Hearing	No	No	No	No	Yes, before City Council
Decision By	Director	Director	Hearing Examiner	Planning Commission	City Council
Notice of Decision	No	Yes	Yes	Yes	Yes
Local Appeal Available To	Hearing Examiner	Hearing Examiner	City Council	City Council	None

Appeal Hearing Type	Open-record	Open-record	Closed-record	Closed-record	N/A
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19.20.040 Consolidated review.

- A. Optional consolidated application processing. All projects that involve two or more application processes may, at the applicant's written request, be processed collectively under the highest numbered type procedure required for any part of the application or may be processed individually under each of the review procedures. If the application is processed under the individual procedures option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure.
- B. Integration of environmental review. An application for a development permit that is subject to the State Environmental Policy Act (SEPA) must be reviewed per AMC Chapter 18.04 concurrently with review of the development permit application except where exempted by that chapter.
- C. Per RCW 36.70B.050, review of an application is allowed only one open record hearing and one closed record appeal hearing.
- D. The appeal of a SEPA procedural determination is not subject to this section.

19.20.050 Eligibility for permits.

- A. All development permits require a lot of record as described in AMC 19.20.060.
- B. The Department may not issue any development permit for a lot created through a division, conveyance, or segregation that was illegal or contrary to city subdivision laws or RCW Chapter 58.17.

19.20.060 Lots of record.

- A. In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this title, a single-family dwelling and customary accessory buildings may be erected on any single substandard lot of record at the effective date of adoption of the 1978 zoning ordinance. Such lot must have been in separate ownership and not of continuous frontage with other lots in the same ownership continuously since April 19, 1978. This provision applies even when such lot fails to meet the requirements for area or width, or both, that are generally applicable in the zone, provided that yard dimensions and other requirements not involving area or width, or both, of the lot conform to the current regulations for the zone in which such lot is located.
- B. If two or more contiguous substandard lots, or combination of contiguous substandard lots and portions of lots, were in single ownership of record as of April 19, 1978, or at any time since that date, they must be aggregated and considered a single parcel for purposes of meeting current area and dimensional standards for lots in the zone in which they are located. If all such contiguous land under single ownership still constitutes a substandard lot once aggregated, a single-family dwelling and customary accessory buildings may be erected thereon (or other uses generally permitted in the zone), provided setback, lot coverage, and other requirements are met. No portion of land or lots thus aggregated may be used or sold in a manner which creates or leaves remaining a substandard lot.
- C. Any residential lot or lots, which were used as residential prior to April 19, 1978, and have been in continual residential use since April 19, 1978, in a zone that is now zoned light manufacturing

must be considered a conforming, permitted residential use within the nonresidential designation. Other requirements of the nonresidential designation, such as lot size, setbacks, density, land coverage, building height, and parking apply to such residential lots.

19.20.070 Vesting.

- A. An application for a building permit or land division vests at the time a complete application is filed with the Department and all application fees are paid, consistent with RCW 19.27.095(1) and RCW 58.17.033(1).
 - 1. An application is complete on the date a complete application is filed, as subsequently determined in the letter of completeness.
 - 2. An application vested under this section is not subject to laws or regulations that become effective after the date of vesting, except as provided below.
- B. This section may not be construed to restrict the City from imposing conditions on development permits pursuant to the State Environmental Policy Act, RCW Chapter 43.21C, WAC Chapter 197-11, as long as such conditions do not change any of the requirements of the underlying code section pertinent to the particular development permit.
- C. This section may not be construed to prevent the City from imposing new regulations necessary to protect the public health and safety, including, but not limited to, the requirements of the building, health, and fire codes, as now adopted or as subsequently amended.

19.20.090 Requirements for public notices.

- A. Applicability. This section applies whenever one of the following is required by this Chapter:
 - 1. Notice of Application;
 - 2. Notice of Public Hearing;
 - 3. Notice of Decision, including any revised Notice of Decision.
- B. Distribution. The Department must timely distribute the notice by:
 - 1. Publication in the City's official newspaper.
 - 2. Electronic mail or first class mail to:
 - a. The applicant;
 - b. Any appellant;
 - c. Any parties of record;
 - d. Any person who, prior to rendering the decision, has requested a copy of the Notice of Decision;
 - e. Any agencies with jurisdiction over the application or any agencies that commented on the application;
 - f. Washington State Department of Transportation if the project is located adjacent to the right-of-way of a state highway;
 - g. Skagit County if the project is located adjacent to a city boundary.

3. For a Notice of Application, via first class mail to owners of property within 300 feet of the subject property.
 4. For a Notice of Decision, to the County Assessor.
 5. Posting on at least two notice boards on or near the subject property, and on the notice board at City Hall and public library. The Director may establish standards for size, color, layout, design, wording, and placement of the signs and notice boards.
- C. Errors in precise compliance with the rules contained in this section do not require repeating the public notice if the notice was reasonable and adequate.

19.20.110 Pre-application conference.

- A. Purpose. The pre-application conference is intended to:
1. provide the City and other agency staff with information about the proposed development;
 2. enable staff to advise the applicant of applicable approvals and requirements;
 3. acquaint the applicant with the applicable requirements of the AMC and other laws; and
 4. identify issues and concerns in advance of a formal application.
- B. When required.
1. Generally. A pre-application conference is required when shown in AMC 19.20.030 Types of Review.
 2. Exception. The Director may waive the pre-application conference if the proposal has few development-related issues, involves subsequent phases of an approved development, or is substantially similar to a prior proposal affecting substantially the same property.
- C. To schedule a pre-application conference, the applicant must submit a request on forms provided by the Department and pay any applicable fees.
- D. The advice the City provides at pre-application meetings is not binding upon the City and does not prevent the City from enforcing all applicable regulations.

19.20.120 Pre-application neighborhood meeting.

- A. Purpose. The purpose of the neighborhood meeting is to:
1. Inform citizens about the potential project at an early stage; and
 2. Foster communication between the applicant and the public regarding potential issues and opportunities for solutions related to the project.
- B. When required.
1. A pre-application neighborhood meeting is required when shown in AMC 19.20.030 Types of Review.
 2. The applicant must hold a neighborhood meeting before submitting an application and after any required pre-application conference.
 3. The Director may require the applicant to hold another neighborhood meeting if the applicant's plans change significantly from those described at the neighborhood meeting.

C. Meeting.

1. The meeting must be held in a public meeting place, such as the Public Library meeting room, Depot Arts Center, or City Hall.
2. The meeting must be facilitated by a third-party facilitator approved by the Director.
3. The meeting must be held Tuesday, Wednesday, or Thursday at 6 or 7 p.m. and may not overlap with any other City meeting or City holidays.

D. Notices.

1. The Director may provide standard notice formats and guidelines for conducting the meeting.
2. The notice must include:
 - a. a brief description of the project;
 - b. date, time, and location of the neighborhood meeting;
 - c. name and phone number of the applicant or their representative.
3. The notice must be mailed at least 10 days prior to the meeting to all of the following:
 - a. The Department;
 - b. The list of property owners that must receive the notice of application.
4. The notice must be published in the local newspaper at least 10 days prior to the meeting.
5. The applicant must also post the notice on the project site at least 10 days prior to the meeting.

- E. The applicant is responsible for all fees and costs associated with the pre-application neighborhood meeting.

19.20.130 Application—contents and completeness—revisions

A. Contents of applications.

1. An application must:
 - a. be submitted on forms provided by the Department;
 - b. be signed by the owners of the property subject to the application, or include the owner's notarized authorization for the applicant to submit the application;
 - c. include fees, as calculated by the Director following the adopted fee schedule.
 - d. include all the information specified in any applicable code section as well as the application checklist provided by the Department.
2. The applicant must apply for all permits identified in the pre-application meeting and required by law.

B. Complete applications.

1. A permit application is complete for the purposes of this section when it meets the requirements of section A.

2. When the Director makes a determination on completeness of an application, the Director must provide to the applicant either:
 - a. a written determination that the application is complete; or
 - b. a written determination that the application is incomplete, a request for information necessary to make the application complete, and a notice that the requested information must be submitted within 90 days.
 3. A determination of completeness is not required if the Director issues the permit prior to the deadlines in subsection C, Timing.
 4. A determination of completeness does not preclude the Director from requesting additional information or studies either at the time of the determination of completeness or later, if the information is required to complete review of the application or substantial changes in the permit application are proposed.
- C. Timing.
1. Initial receipt of application. Upon initial receipt of an application, the Director must provide the applicant a determination of completeness within 28 days. If the Director does not provide a written determination within 28 days, the application is deemed complete at the end of the 28th day.
 2. Receipt of additional information. When the applicant submits the requested information, the Director must evaluate the application for completeness within 14 days. If the Director does not provide a written determination within 14 days, the application is deemed complete at the end of the 14th day.
 3. Incomplete applications.
 - a. The applicant may submit a written request for extension of the deadline to submit the requested information for an additional 90 days. The Director may grant up to two such extensions.
 - b. If the applicant has not provided the requested information by the deadline, the Director must reject and return the application along with any unspent application fees.
- D. Revisions to applications.
1. The applicant may make minor revisions to the application after the determination of completeness and before the closure of an open public hearing.
 2. A “minor revision” to an application is one that does not:
 - a. Involve more than 10% increase in area or intensity of the use;
 - b. Increase the number of lots, dwelling units, or density;
 - c. Decrease the quality or amount of open space;
 - d. Result in any significant environmental impact not adequately reviewed or mitigated by previous documents;
 - e. Expand onto property not included in the original proposal.
 3. Any revision other than a minor revision requires a new application.

19.20.140 Application—notice.

- A. When required. A Notice of Application is required when shown in AMC 19.20.030 Types of Review.
- B. Contents. The Notice of Application must include:
 - 1. the application number;
 - 2. the name of the applicant;
 - 3. the date of application, the date of the notice of completion for the application, and the date of the notice of application;
 - 4. identification of the location of the project, by address if available;
 - 5. a description of the proposed application, a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070;
 - 6. the identification of other permits not included in the application, to the extent known by the City;
 - 7. the identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
 - 8. a statement of the public comment period, which lasts the number of days specified for the application type in AMC 19.20.030 Types of Review; except all shoreline permits subject to the comment period as outlined in WAC 173-27-110(2)(e), which allows for a 30-day comment period.
 - 9. 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;
 - 10. the date, time, place and type of hearing, if applicable and scheduled at the date of notice of the application;
 - 11. a statement of the preliminary determination of consistency, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation and consistency;
 - 12. if the City is using the optional DNS process (WAC 197-11-355), additional information will be added to the notice as required by WAC 197-11-355(2);
 - 13. any other information determined appropriate by the City, such as the City's likely threshold determination, if complete at the time of issuance of the notice of application.
- C. Timing.
 - 1. The Department must distribute a Notice of Application within 14 days of determination that an application is complete and at least 15 days prior to any open record hearing.
 - 2. Within seven days after the end of the public comment period, the Department must transmit the applicant a copy of public comments timely received in response to the Notice of Application together with a statement that the applicant may submit a written response to these comments within seven days from the date the comments are transmitted.

19.20.150 Application—department review.

- A. The Department has a duty to review each application for compliance with applicable city codes and to deny, or recommend denial of, or approve, or recommend approval of, an application based on its compliance with applicable city codes.
- B. If the Department is required to provide a recommendation to the decision maker or body making a recommendation on an application, the Department’s recommendation must include all of the following:
 - 1. the date of determination of completeness;
 - 2. identification of city codes relevant to evaluation of the application;
 - 3. a statement of facts necessary for the decision maker to evaluate the application’s compliance with applicable city codes;
 - 4. the Department’s evaluation of whether the application complies with applicable city codes;
 - 5. a description of the public process the application is subject to;
 - 6. a description of any environmental review related to the application;
 - 7. draft findings of fact for the decision maker;
 - 8. any other information that is necessary to make a decision regarding the application.
- C. Requirement to consider comments.
 - 1. In making its recommendation or decision, the Department must consider written comments, and applicant’s responses, that are timely received.
 - 2. Except for a determination of significance, the Department may not issue its SEPA threshold determination or issue a decision or recommendation on the application until the expiration of the public comment period on the notice of application.

19.20.160 Public hearings and meetings

- A. All hearings and meetings conducted as part of processing a permit application must be conducted consistent with this section.

Table 19.20.160-1. Types of hearings and meetings

	Open-record Pre-decision	Closed-record Decision	Open-record Appeal	Closed-record Appeal
Participation	Any interested party	Applicant and any party of record	The applicant, any appellant, and any party of record	The applicant, any appellant
Facts allowed outside the record	Yes	No	Yes	No
Standard of review	Compliance with AMC Titles 16, 17, 18, 19	De novo	Clearly erroneous	Clearly erroneous
Burden of proof	Applicant	Applicant	Appellant	Appellant

- B. Swearing-in required. Before testifying, any witness, including city staff, must be required to declare that he or she will testify truthfully, by oath or affirmation.
- 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 specified date and no further notice under this section is required.

19.20.170 Public hearing—notice.

- A. When required. A notice of public hearing is required for any public hearing held on a permit application pursuant to this chapter.
- B. Contents. The public notice must include:
 - 1. The application number;
 - 2. Project summary/description of each project permit application;
 - 3. The designation of the hearing body;
 - 4. The date, time, and place of the hearing and a statement that the hearing will be conducted in accordance with the rules of procedure adopted by the hearing body;
 - 5. General project location, vicinity, address, and parcel number(s), if applicable;
 - 6. The name of the applicant or applicant’s authorized representative and the name, address and telephone number of a contact person for the applicant, if any;
 - 7. The SEPA threshold determination, or description thereof, will be contained in the notice, along with any appropriate statement regarding any shared or divided lead agency status and phased review and stating the end of any final comment period;
 - 8. A statement regarding the appeal process; and
 - 9. The date when the staff report will be available and the place and times where it can be reviewed.
- C. Timing.
 - 1. The Department must distribute, including by publishing in the City’s official newspaper, a notice of public hearing at least 15 days prior to the date of public hearing.

19.20.180 Decision—timing.

- A. Time limits.
 - 1. The decision-maker may not issue its decision on an application until the expiration of the public comment period on the notice of application.
 - 2. The final decision on an application for a development permit must be made within the time limits from determination of completeness listed in Table 19.10.200-1.

Table 19.20.180-1.

Type of Application	Time Limit
Preliminary subdivisions and binding site plans (RCW 58.17.140)	90 days
Final subdivisions (RCW 58.17.140)	30 days
All other development permits (RCW 36.70B.080)	120 days

3. The following time periods are excluded from the calculation of the time limits:
 - a. Any time required to correct plans, perform studies, or provide additional information.
 - b. Any time during which substantial project revisions are made or requested by an applicant, in which case the 120 days will be calculated from the time that the City determines the revised application to be complete.
 - c. Any time required for the preparation and review of an environmental impact statement.
 - d. Any time required to complete the process for the siting of an essential public facility.
 - e. Any time required to obtain any necessary variance.
 - f. Any time required for any administrative appeals.
 - g. Any time required for any administrative appeal of SEPA threshold determination, if applicable.
 - h. Any time required for any remand to the hearing body.
 - i. Any extension of time mutually agreed upon by the City and the applicant.
 - j. Any specific amount of additional time that the City determines is necessary for the processing of a specific complete project permit application.
4. Extension of Time. If the City is unable to issue its final decision on an application within the time limits provided for in this section, it must provide written notice to the applicant. The notice must include a statement of the reasons why the time limits cannot be met and an estimated date for issuance of the Notice of Decision.
- B. Effective Date. The decision is effective on the date stated in the decision, resolution, or ordinance. The date from which appeal periods may be calculated is the date of issuance of the decision.

19.20.190 Decision—notice.

- A. When required. When a final decision is made that requires a Notice of Decision per AMC 19.20.030 Types of Review or a decision is made on appeal, the Department must issue a Notice of Decision.
- B. Contents. The Notice of Decision must include:
 1. the application number;
 2. the name of the applicant;
 3. the name of the project;

4. the street address of the project site;
5. a description of the application;
6. the date of final decision on the application;
7. the date the Notice of Decision was issued;
8. the decision on the application;
9. any threshold determination made pursuant to RCW Chapter 43.21C;
10. a notice that affected property owners may request a change in valuation from the County Assessor for property tax purposes notwithstanding any program of revaluation;
11. the procedure for appeal and the deadline for filing an appeal.

19.20.210 Appeals.

- A. Standing. The following parties have standing to appeal final decisions:
 1. The Director;
 2. The applicant;
 3. Any owner of the property subject to the application;
 4. Any party of record.
- B. Necessary parties. The following are parties to any appeal:
 1. The Director;
 2. The applicant;
 3. Any owner of the property subject to the application.
- C. Permissive joinder. The hearing body may add a party with standing to the appeal, after the appeal deadline has passed, upon the request of the party.
- D. Time to file. An appeal is timely only if it is:
 1. Filed with the City Clerk within 14 calendar days after written notice of the decision is mailed; and
 2. Accompanied by the appropriate appeal fee.
- E. Method of service. Appeals must be delivered to the City Clerk by mail or personal delivery before 5:00 p.m. on the last business day of the appeal period. Appeals received by mail after 5:00 p.m. on the last day of the appeal period will not be accepted, regardless when such appeals were mailed or postmarked.
- F. Contents. Appeals must be submitted on forms provided by the Department and contain the following:
 1. appellant's name, address, and phone number;
 2. a description of the appellant's standing to appeal;
 3. identification of the application or decision that is the subject of the appeal;

4. appellant's statement of grounds for appeal and the facts upon which the appeal is based, with specific references to the facts in the record;
 5. the specific relief sought;
 6. a statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature or the signature of the appellant's agent, provided such agent's authorization is in writing and accompanies the appeal.
- G. Automatic stay. Except for administrative appeals of SEPA threshold determinations, the timely filing of an appeal will stay the decision until such time as the appeal is concluded or withdrawn.
- H. Procedures. The appellate body may provide in its procedures for a decision on the appeal after a hearing where the parties present argument, or new evidence when allowed by this Chapter; or after the parties submit written arguments.
- I. Decision on appeal. The appellate body must issue a written decision on the appeal supported by written findings and conclusions, and the Department must distribute a revised Notice of Decision incorporating the decision on appeal.

19.20.220 Remand.

- A. In the event that the appellate body determines that the public hearing record is insufficient or otherwise flawed, the appellate body may remand the matter back to the original decision-maker to correct the deficiencies.
1. The appellate body must specify the items or issues to be considered and the time frame for the additional work.
 2. The original public hearing may be re-opened if necessary for the limited purpose of addressing specific questions articulated by the appellate body.
 3. Only the parties of record to the open-record hearing, or in the case of an appeal, the parties to the appeal, may participate in the remand.
- B. The original decision-maker must affirm, modify, or reverse its original action based on the revised public record.

19.20.230 Reconsideration.

- A. A party to the underlying decision may seek reconsideration only of a final decision by filing a written request alleging specific errors on a form provided by the Department within 10 days of the date of decision.
- B. The decision-maker must consider the request without public comment or argument by the party filing the request. Reconsideration may be granted only when a material legal error has occurred or a material factual issue has been overlooked that would change the previous decision.
1. If the request is denied, the previous action will become final.
 2. If the request is granted, the decision-maker may revise and reissue its decision or may call for argument in accordance with the procedures for closed-record appeals. If the decision is

revised and the decision requires a Notice of Decision, the Department must distribute the revised notice.

19.20.240 Exhaustion of administrative remedies.

- A. No further administrative appeals are available when the final appeal shown in AMC 19.20.030 Types of Review has been heard.
- B. A request for reconsideration is not required to exhaust administrative remedies.

Chapter 19.22 Concurrency

Reserved.

Chapter 19.24 Public Improvements

19.24.100 Public Improvements—Design Standards.

- A. Public improvements, private roads, private sewer connections, and private stormwater facilities must be constructed consistent with the most recent version of the Development and Engineering Standards promulgated by the City’s Public Works Director.
- B. All public improvements must be extended as necessary to provide a smooth transition to existing improvements both laterally across the street and longitudinally up and down the street for drainage and vehicular and pedestrian traffic.

19.24.120 Public Improvements—Requirement.

- A. Applicability. This section applies to a building permit for construction of any new building or structure; or for the addition to or repair of an existing structure, the cost of which within a 12-month period exceeds 50% of the existing structure’s current assessed value.
- B. A building permit must be conditioned to require public improvements as described below:
 - 1. Where the street, road, or alley providing access to a building site is developed in accordance with City’s Development and Engineering Standards but only on the side of the street not abutting the building site, the public street for the undeveloped portion of the street immediately adjacent to the building site must be developed to match the improvements on the portion of the street which is developed.
 - 2. Where the building site abuts an existing arterial street as defined by the city functional classification system map, the public streets, alleys, and the storm sewer system abutting the property must be improved in accordance with City’s Development and Engineering Standards.
- C. For a building permit to construct a single-family or duplex residential structure, the Director of Public Works may waive all or a portion of the construction of improvements required in this chapter if the applicant records a covenant not to oppose establishment of a local improvement district to construct such improvements required. The covenant must be on forms approved by the city attorney, executed by all persons having an interest in the property for which application for a building permit is being made, and run with the land and be binding on future owners of such land.

- D. No driveway access is permitted onto Anaco Beach Road where the driveway access can be constructed on property owned by the applicant to a local access street.

Chapter 19.28 Permit Revision and Expiration

19.28.010 Permit Revision.

- A. Type of review. A major revision to an approved permit requires a new application. A minor revision to an approved permit may be approved by the Director. The Director may condition approval to ensure compliance with this section.
- B. Types of revisions.
 - 1. A major revision is any revision other than a minor revision, or a revision that does not qualify as a minor revision when considered cumulatively with other minor revisions since initial issuance of the permit.
 - 2. A minor revision is a revision that does not:
 - a. Increase the area of the use by more than 10%;
 - b. Increase the intensity of the use in a way that significantly affects the surrounding area in terms of traffic, noise, hours of operation, parking, or other impacts;
 - c. Increase the number of lots, dwelling units, or density;
 - d. Decrease the quality or amount of open space;
 - e. Result in any significant environmental impact not adequately reviewed or mitigated by previous documents;
 - f. Expand onto property not included in the original proposal.
- C. A permit revision may not extend the time for expiration.

19.28.020 Permit Expiration.

- A. Expiration Schedule. Permits and approvals have the following initial terms until expiration, and may be extended the number of times indicated for the length of extension indicated.

Table 19.28.020-1. Permit Terms and Extensions

Type of Permit or Approval	Initial Term	Number of Allowed Extensions	Length of Each Extension
Boundary line adjustment	1 year to record	0	n/a
Building permits	18 months	<u>1</u>	18 months
Clearing, grading, grubbing	1 year to complete work	1	6 months
Conditional Use Permit	5 years to establish use	1	1 year
Preliminary Plat, Short Plat, Binding Site Plan	Time to submit final plat is as set forth in RCW 58.17.140.	0	n/a
Shoreline Exemption	1 year per SMP	0	n/a

Type of Permit or Approval	Initial Term	Number of Allowed Extensions	Length of Each Extension
Shoreline Permits	2 years to commence construction; 5 years maximum. See WAC 173-27-090(4)	1	1 year
Reasonable Use Exception	5 years to establish use	1	1 year
Special Use Permit	See applicable code section		
Variance	5 years to establish use	1	1 year
Wetland Delineation Verification	5 years from city approval	0	n/a

- B. Shortening Permit Term. The City may, when issuing a decision, require a shorter expiration period than that indicated in subsection A when the nature of the specific development is such that the normal expiration period is unreasonable or would adversely affect the health, safety, or general welfare of people working or residing in the area of the proposal. The decision-maker may adopt appropriate time limits as a part of action on shoreline permits, in accordance with WAC 173-27-090.
- C. Commencement of Permit Term. The term for a permit will commence on the date of the final decision; except that in the event the decision is appealed, the effective date will be the date of decision on appeal. The term for a shoreline permit will commence on the effective date of the permit as defined in WAC 173-27-090.
- D. When Permit Expires.
 - 1. A permit issued under this title will expire if, on the date the permit expires, the project sponsor has not performed the work indicated in Table 19.28.020-1 or fulfilled the requirements of the applicable permit.
 - 2. Exception. The initial permit term does not include the time during which a permit was not actually pursued by construction because of pending litigation related to the permit or because the applicant was diligently pursuing permits from other agencies necessary for construction.
- E. Extension of Land Use Applications. An extension may be granted by the Administrator for one year if the applicant has attempted in good faith to complete the proposed development activity necessary to meet the conditions of approval.
- F. Extension of Shoreline Permits. In accordance with Section 18.16.130.

Division 3 Permits

Chapter 19.32 Land Divisions

Reserved.

Chapter 19.34 Boundary Line Adjustments

Reserved.

Chapter 19.36 Conditional Uses

19.36.010 Purpose.

Some uses in some zones are permitted subject to a conditional use permit because of their unusual characteristics, or special characteristics of the area in which they are to be located, so that they may be properly located with respect to the objectives of this title and their effect on surrounding properties.

19.36.020 Applicability.

The provisions of this chapter apply to all conditional uses.

19.36.030 Application requirements.

A conditional use requires a permit. An application must be submitted on forms provided by the Department, and must demonstrate compliance with the conditional use criteria described in this chapter.

19.36.040 Criteria.

- A. In order to grant a conditional use permit, the decision maker must find that the use would be consistent with the following criteria:
 1. the use would comply with any specific requirements for the conditional use specified elsewhere in this code;
 2. access to the site is appropriate considering the anticipated volume of traffic resulting from the use;
 3. off-street parking and loading facilities are adequate in terms of location, amount, and design to service the use;
 4. the amount and location of open space and the provision of screening is such that buffering of incompatible uses is achieved;
 5. the location and intensity of outdoor lighting is such that it does not cast light on adjacent, adjoining, or neighboring properties;
 6. hours and manner of operation of the proposed use, including anticipated noise generation, are not inconsistent with the adjacent or nearby uses;
 7. public facilities and utilities are capable of adequately serving the proposed use;
 8. the physical conditions of the site, including size, shape, topography, and drainage, are suitable for the proposed development;
 9. any other factors deemed relevant to the decision-maker.

19.36.050 Conditions authorized.

- A. In permitting a conditional use, the decision-maker may impose, in addition to regulations and standards expressly specified in this code, other conditions necessary to ensure compatibility with the conditional use criteria.
- B. These conditions may include, but are not limited to:
 - 1. Requirements increasing the required lot size or yard dimensions;
 - 2. Increasing street widths, controlling the location and number of vehicular access points to the property;
 - 3. Increasing the number of off-street parking or loading spaces required;
 - 4. Limiting the coverage or height of buildings or structures or requiring screening and landscaping where necessary to reduce noise and glare and maintain the property in a character keeping with the surrounding area; and
 - 5. Requirements under which any future enlargement or alteration of the use must be reviewed by the city and new conditions imposed.

Chapter 19.38 Variances

19.38.010 Purpose.

The purpose of this chapter is to establish the criteria for a variance.

19.38.020 Applicability.

- A. Generally, variances are allowed to grant relief from dimensional or numeric standards, including:
 - 1. building size or height;
 - 2. landscaping;
 - 3. lot coverage;
 - 4. minimum density or maximum lot size;
 - 5. parking;
 - 6. setbacks.
- B. Variances are not allowed for any of the following:
 - 1. allowable, conditionally permitted, or prohibited uses in each zone;
 - 2. maximum density or minimum lot size;
 - 3. procedural or administrative provision of this Title;
 - 4. any provision of this code which, by the express terms of that provision, is not subject to a variance;
 - 5. any conditions of approval established during permit review;
 - 6. the provisions of AMC Chapter 17.70 Critical Areas.

19.38.030 Variance levels.

- A. Variances are categorized into two levels, as specified below or elsewhere in this Title.
 - 1. A Level 1 variance is any variance up to 25% of the numerical standard in question.
 - 2. A Level 2 variance is any variance that exceeds 25% of the numerical standard in question.
- B. A request for a variance must be reviewed as the highest level for which it qualifies.

19.38.040 Criteria.

- A. The City may approve or approve with modifications an application for a variance from the provisions of this code only if by preponderance of evidence, the applicant demonstrates that all of the following criteria are met:
 - 1. The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone of the site;
 - 2. The variance is necessary because of the unique size, shape, topography, or location of the site;
 - 3. The site is deprived, by the provisions of this code, of rights and privileges enjoyed by other properties in the vicinity and same zone as the site;
 - 4. The variance is the minimum necessary to provide the site with those rights and privileges;
 - 5. The need for the variance is not the result of deliberate actions of the applicant or property owner;
 - 6. Granting of the variance will not be materially injurious to the property or improvements in the vicinity and zone in which the site is located;
 - 7. The variance is not inconsistent with the intent and purpose of the provision being varied.
- B. Conditions for granting. In authorizing the variance, the decision maker may attach any conditions that it deems to be necessary or desirable in order to carry out the intent and purposes of this chapter and in the public interest.
- C. Approval. If the variance application is approved, the applicant must record the variance against the property with the County Auditor on a form provided by the Department and provide the Department a copy of the recording.
- D. Transfer of ownership. A variance runs with the land. Compliance with the conditions of a variance is the responsibility of the current owner of the property, whether the applicant or a successor.

Division 4 Zoning & Land Uses

Chapter 19.40 Zoning

Reserved.

Chapter 19.42 Uses

19.42.010 Generally.

- A. Land uses within the City of Anacortes are allowed when identified in AMC Chapter 19.40 Zoning or AMC Title 17 as allowed in the zone as identified on the City's official zoning map.
 - 1. "Permitted" uses are those that do not require discretionary land use approval permits, but may require building permits or other permits required by AMC Chapter 19.14 International Codes.
 - 2. "Administrative Conditional Uses" are uses that require approval by the Director following the process in AMC 19.20.030 Types of Review.
 - 3. "Conditional Uses" are uses that require a higher level of review following the process in AMC 19.20.030 Types of Review.
- B. A use that is specifically described as being prohibited in the applicable zone, or is listed in another zone but not in the applicable zone, is prohibited.
- C. If a proposed use is not listed, but is clearly similar to uses listed in the zone in which it is to be located, the decision-maker may determine it is substantially similar to a listed use and therefore allowed for the same level of review if:
 - 1. The proposed use substantially meets the intent of and is consistent with the goals, objectives, and policies of the Comprehensive Plan;
 - 2. The proposed use meets the stated purpose and general intent of the zone in which the use is proposed to be located;
 - 3. The proposed use shares characteristics common with and is not of greater intensity, density or generate more environmental impact than those uses listed in the zone in which it is to be located.

Chapter 19.44 Supplemental Use Criteria

19.44.010 Generally.

The requirements described in this chapter apply in addition to any other requirements of this code.

19.44.020 Accessory Dwelling Units

- A. Purpose. The purpose of an accessory dwelling unit is to:
 - 1. Add affordable units to existing housing and make housing units available to moderate-income people who might otherwise have difficulty funding homes within the city;
 - 2. Develop housing units in single-family neighborhoods that are appropriate for people at a variety of stages of their lives;
 - 3. Provide homeowners with a means of obtaining, through tenants in either the accessory dwelling unit or the principal residence, rental income, companionship, or security;
 - 4. Protect neighborhood stability, property values, and the character of the neighborhood.

- B. Applicability. This section applies to accessory dwelling units.
- C. Accessory dwelling units may be approved in the R1, R2, R3, R4, R4A, and R4B zones.
- D. Standards and criteria.
 1. An accessory dwelling unit may be established by any one or combination of the following methods:
 - a. Alteration of interior space of the residence; or
 - b. Conversion of an attic, basement, attached garage, or other portion of a residence; or
 - c. Addition of attached living area onto an existing residence;
 - d. Construction of a detached living area; or
 - e. New construction.
 2. Each single-family residence may have only one accessory dwelling unit and these two units may not be condominiumized.
 3. One of the dwelling units must be occupied by one or more owners of the property as the owner's permanent and principal residence. "Owners" include title holders and contract purchasers. The applicant must record a notice against the property title with the County Auditor, on forms provided by the Department, describing this requirement.
 4. The total number of persons who may occupy the principal and accessory dwelling units combined may not exceed the number of persons that are defined by this title as a "family."
 5. The habitable floor area of the accessory dwelling unit may not exceed 900 square feet.
 6. Any accessory dwelling unit included within a primary residence must have no interconnected interior spaces.
 7. A minimum of three off-street parking spaces must be provided for the principal and accessory dwelling units.
 8. The appearance and character of the dwelling shall be maintained when viewed from the surrounding neighborhood. Only one entrance to the residential structure may be located on any street side of the structure; provided that this limitation shall not affect the eligibility of a residential structure which has more than one entrance on the front or street side on the effective date of the original ADU ordinance.

19.44.030 Adult Concessions

Reserved.

19.44.040 Bed and Breakfasts

- A. Purpose. This section is intended to ensure parking, impact on surrounding neighbors, health and safety, and other considerations limit any adverse impacts of bed and breakfasts on the surrounding neighborhood.
- B. Applicability. This section applies to all bed and breakfasts.

C. Requirements.

1. The owner must be the operator of the facility and must reside on the premises.
2. The owner's quarters and guest rooms must all be in the main building.
3. If located in a residential zone, the facility must be operated in such a manner as not to give the outward appearance of a business, in the ordinary meaning of the term, and may not infringe upon the right of the neighboring residents to enjoy a peaceful occupancy of their homes.
4. The use must provide off-street parking, including at least two spaces for the owner and one for each guest room.

19.44.050 Essential Public Facilities

Reserved.

19.44.055 Home Occupations

- A. Purpose. The purpose of a home occupation is to allow certain activities to be undertaken for gain or profit within a dwelling, or a building accessory to a dwelling, in any zone in which dwellings are present, while maintaining the residential character of the property and avoiding detrimental effects to the surrounding neighborhood.
- B. Applicability. This section applies to all home occupations except a home office or home telephone or internet sales, or similar use, with no customer or employee visits to the site.
- C. Requirements.
 1. The occupation must not create any noise, dust, glare, vibration, odor, hazardous waste, smoke, electrical interference, or other adverse impact to the surrounding residential area.
 2. The primary use of the premises must be residential and at no time may the home occupation exceed 25% of the floor area of the dwelling unit, not including the garage.
 3. There may be no exterior indication of the occupation, including no outdoor storage related to the occupation, nor exterior modification of the building(s) to accommodate the occupation, other than allowed signs.
 4. No person other than members of the family residing on the premises may be engaged in such occupation.
 5. If the occupation requires that customers or clients visit the premises, adequate off-street parking must be a condition of the permit, and traffic generated by the business may not exceed that which might reasonably be generated by residential use of the premises.
 6. A home occupation permit may not be transferred to another person.
 7. All regular business license requirements must be met.
- D. Any expansion or change of the nature of the home occupation that does not qualify for a minor permit revision requires a new permit.

19.44.060 Marijuana Producers, Processors, and Retailers

Reserved.

19.44.070 Recreational Vehicle Parks.

Reserved.

19.44.080 Schools

Reserved.

19.44.090 Telecommunications Facilities

Reserved.

Chapter 19.49 Nonconforming Uses and Structures

19.49.010 Intent.

The intent of this Chapter is:

- A. To permit nonconforming uses or structures to continue until they are removed, but not to encourage their survival, except as expressly provided in this Chapter; and
- B. That nonconforming uses or structures may not be used as grounds for adding other structures or uses prohibited elsewhere in the same zone; and
- C. That nonconforming uses or structures not be allowed to expand, be altered, or reconstructed except as otherwise outlined in this Chapter.

19.49.020 General rule.

- A. Any lot, building, structure, or use of land, legally permitted or established, must be permitted to continue consistent with this Chapter. A change in occupancy or ownership does not affect the right to continue such use, building, or structure.
- B. Any use for which a conditional use permit has been obtained is not a nonconforming use so long as the requirements of the conditional use permit are met.

19.49.030 Enlargement, Alteration, Expansion or Change of Nonconforming Uses.

- A. Nonconforming Uses. No nonconforming use may be permitted to be enlarged, altered, or expanded, except that a nonconforming use may be extended throughout any part of the building which was designed for its use prior to the time of the adoption of this Chapter. This extension is allowed; provided, that no structural alterations, except those required by law, are made therein, and that no expansion of the structure or parking requirements occurs.
- B. No nonconforming use may be allowed to be reestablished after abandonment. Thereafter, the use of the building, structure or site must be in conformity with the regulations for the district in which it is located.
- C. A nonconforming use may not hereafter be changed to any other nonconforming use, regardless of the conforming or nonconforming status of the building in which it is housed.

19.49.040 Enlargement, Alteration, Reconstruction of Nonconforming Buildings and Structures.

- A. Routine maintenance and repairs may be performed on a nonconforming structure or building.
- B. When a nonconforming building or structure is damaged by fire, natural disaster, or other calamity, and structural repairs needed to maintain a building or structure in a safe structural condition, the building or structure may be restored or replaced provided:
 - 1. A complete application for reconstruction or replacement is submitted within one year of the damage, and
 - 2. That the restoration or replacement must be made to conform to the regulations of the zoning district in which the building or structure is located, or if such regulations cannot physically be met without reducing the size of the building, the restoration may not extend any nonconformity that existed prior to the damage.
- C. Additions to nonconforming structures that meet all applicable zoning dimensional standards will not be considered an enlargement under this Subsection.

19.49.050 Abandonment.

- A. For the purposes of this section, abandonment will mean:
 - 1. An intention to abandon; and
 - 2. An overt act, which carries the implication that the owner does not claim or retain any interest in the right to the nonconforming use.
- B. Conformance after Abandonment. If any nonconforming use of land, building, or structure ceases for any reason whatsoever for a period of one year or more, any future use of such land, building or structure must thereafter be in conformity in the zoning district in which it is located. The mere presence of a structure, equipment, or material will not be deemed to constitute a continuance of a nonconforming use unless the structure, equipment, or material are actually being occupied or employed in maintaining such use.
- C. Procedure for Verifying Abandonment. When the Department obtains information indicating that a nonconforming use, building or structure has or may have been abandoned, the Department must send a letter by certified mail return receipt requested to the property owner requesting confirmation of either abandonment or non-abandonment. Documentation that the nonconforming use, structure, or building has been occupied, used, or maintained within the last year will be required. After notification, if the owner fails to respond to the request within 60 days, the building, structure, or use will be deemed abandoned. If the owner replies that the building, structure, or use is not abandoned, the Department may initiate a Level 2 review to determine if the abandonment has occurred.

Division 5 Community Design

Reserved.

Division 6 Project Design

Reserved.

Division 7 Environment

Chapter 19.70 Critical Areas

Reserved.

Chapter 19.72 Shorelines

Reserved.

Chapter 19.76 Stormwater

Adopted by ordinance 2991.

Chapter 19.78 Clearing and Grading

Adopted by ordinance 2991.

Division 8 Development Agreements

Chapter 19.80 Development Agreements

Reserved.

Chapter 19.82 Development Agreement with Port

AMC Chapter 17.74 is recodified as AMC Chapter 19.82. The code reviser is directed to include the date of adoption of the development agreement, March 29, 2005, in recodified AMC 17.17.250, and to update the cross-references in existing AMC 17.74.060.C to new AMC Chapter 19.38 Variances and new AMC Chapter 19.20 Application Procedures.