

Title 19

ADMINISTRATION OF DEVELOPMENT REGULATIONS

Chapters:

- 19.01 Types of Project Permit Applications**
- 19.02 Type I – IV Project Permit Applications**
- 19.03 Notice of Application and Public Notice**
- 19.04 Consistency with Development Regulations and SEPA**
- 19.05 Open Record Public Hearings**
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Chapter 19.01

TYPES OF PROJECT PERMIT APPLICATIONS

Sections:

- 19.01.001 Procedures for processing project permits.
- 19.01.002 Determination of proper procedure type.
- 19.01.003 Project permit application framework.
- 19.01.004 Joint public hearings.
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- 19.01.006 Legislative enactments not restricted.
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19.01.001 Procedures for processing project permits.

For the purpose of project permit processing, all project permit applications shall be classified as one of the following: Type I, Type II, Type III or Type IV. Legislative decisions are Type V actions, and are addressed in CHMC 19.01.005. Exclusions from the requirements of project permit application processing are contained in CHMC 19.01.007. [RCW 36.70B.120.] (Ord. 738 § 1, 1996)

19.01.002 Determination of proper procedure type.

A. Determination by Administrator. The administrator shall determine the proper procedure for all development applications. If there is a question as to the appropriate type of procedure, the administrator shall resolve it in favor of the higher procedure type number.

B. Optional Consolidated Permit Processing. An application that involves two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by the code. The applicant may determine whether the application shall

be processed collectively or individually. If the application is processed under the individual procedure option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure. [RCW 36.70B.060(3), 36.70B.120.]

C. Decisionmaker(s). Applications processed in accordance with subsection (B) of this section which have the same highest numbered procedure but are assigned different hearing bodies shall be heard collectively by the highest decisionmaker(s). The city council is the highest, followed by the board of adjustment, planning commission, and then the administrator. Joint public hearings with other agencies shall be processed according to CHMC 19.01.004. [RCW 36.70B.060(3), 36.70B.120.] (Ord. 738 § 1, 1996)

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19.01.003 Project permit application framework.

Action Type

PROCEDURE PROJECT PERMIT APPLICATIONS (TYPE I – IV) LEGISLATIVE						
	TYPE I	TYPE II	TYPE III	TYPE IVA	TYPE IVB	TYPE V
Recommendation made by:	N/A	N/A	N/A	Planning commission	N/A	Planning commission
Final decision made by:	Administrator	Administrator/ planning commission	Board of adjustment	City council	City council	City council
Notice of application:	No, unless SEPA applies	No, unless SEPA applies	Yes	Yes	Yes	No
Open record public hearing:	No	Only if appealed, open record hearing before city council	Yes, before board of adjustment to render final decision	Yes, before planning commission	Yes, before council to render final decision	Yes, before planning commission to make recommendation to council
Closed record appeal/final decision:	No	No	Only if appealed, then before council	City council to make final decision	No	Yes, or council could hold its own hearing
Judicial appeal:	Yes	Yes	Yes	Yes	Yes	Yes

Decisions

TYPE I	TYPE II	TYPE III	TYPE IVA	TYPE IVB	TYPE V
Building, grading, mechanical permits (non-SEPA) CHMC 15.04.160	Short plat Chapter 16.12 CHMC	Variances and special exceptions	Preliminary plat Chapter 16.16 CHMC	Final plat Chapter 16.20 CHMC	Comp. plan and amendments CHMC 19.01.005
Sign permits Chapter 17.56 CHMC	Boundary line adjustment Chapter 16.10 CHMC	Interpretations CHMC 17.72.060	Plat amendments Chapter 16.36 CHMC	Site-specific rezone (planning commission) Chapter 17.76 CHMC	Development regulations and amendments CHMC 19.01.005
Swimming pool permits Chapter 17.48 CHMC	Recreational facilities permits Chapter 17.40 CHMC	Variations and exceptions (planning commission) Chapter 16.32 CHMC		Water tower antenna use permits Chapter 17.77 CHMC	
Public place use permit Chapter 12.14 CHMC	Building, grading, mechanical permits (SEPA) CHMC 15.04.160	Variances and exceptions CHMC 15.10.070	Conditional use permits Chapter 17.10 CHMC		

(Ord. 905 § 3, 2010; Ord. 853 § 4, 2003; Ord. 806 § 1, 1999; Ord. 771 § 1, 1997; Ord. 766 § 1, 1997; Ord. 741 § 1, 1996; Ord. 738 § 1, 1996)

19.01.004 Joint public hearings.

A. Administrator's Decision to Hold Joint Hearing. The administrator may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency on the proposed action, as long as: (1) the hearing is held within the city limits; and (2) the requirements of subsection (C) of this section are met. [RCW 36.70B.110(7).]

B. Applicant's Request for a Joint Hearing. The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this title. In the alternative, the applicant may agree to a particular schedule if that additional time is needed in order to complete the hearings. [RCW 36.70B.110(7).]

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

1. The other agency is not expressly prohibited by statute from doing so [RCW 36.70B.110(8)];

2. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;

3. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing; and

4. The hearing is held within the geographic boundary of the local government. (Ord. 738 § 1, 1996)

19.01.005 Legislative decisions.

A. Decisions. The following decisions are legislative, and are not subject to the procedures in this title, unless otherwise specified:

1. Adoption of development regulations and amendments;

2. Area-wide rezones initiated by the city to implement new city policies;

3. Adoption of the comprehensive plan and plan amendments; and

4. Annexations.

B. Planning Commission. The planning commission shall hold a public hearing and make recommendations to the city council on the decisions listed in subsection (A) of this section. The public hearing shall be held in accordance with the requirements of Chapter 19.05 CHMC.

C. City Council. The city council may consider the planning commission's recommendation in a public hearing or public meeting, as applicable.

D. Public Notice. Notice of the public hearing or public meeting shall be provided to the public as set forth in CHMC 19.03.003(B)(4).

E. Implementation. The city council's decision shall become effective by passage of an ordinance. (Ord. 738 § 1, 1996)

19.01.006 Legislative enactments not restricted.

Nothing in this chapter or the permit processing procedures shall limit the authority of the city council to make changes to the city's comprehensive plan, as part of an annual revision process, or to make changes to the city's development regulations. [RCW 36.70B.020(4).] (Ord. 738 § 1, 1996)

19.01.007 Exemptions from project permit application processing.

A. Whenever a permit or approval has been designated as a Type I, II, III or IV permit, the procedures in this title shall be followed in project permit processing. The following permits or approvals are, however, specifically excluded from the procedures set forth in this title:

1. Landmark designations;
2. Street vacations;
3. Street use permits;
4. Impact fee decisions;

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5. Street opening permits as provided in Chapter 12.08 CHMC;

6. Public place use permits as provided in Chapters 12.14 and 17.77 CHMC.

B. Pursuant to RCW 36.70B.140(2), building permits, boundary line adjustments, other construction permits, or similar administrative approvals which are categorically exempt from environmental review under SEPA (Chapter 43.21C RCW) and CHMC Title 18, or permits/approvals for which environmental review has been completed in connection with other project permits, are excluded from the following procedures:

1. Determination of completeness (CHMC 19.02.003(A));

2. Notice of application (CHMC 19.03.001);

3. Except as provided in RCW 36.70B.140, optional consolidated project permit review processing (CHMC 19.01.002(B));

4. Joint public hearings (CHMC 19.01.004);

5. Single report stating all the decisions and recommendations made as of the date of the report that do not require an open record hearing (CHMC 19.04.002(C));

6. Notice of decision (CHMC 19.05.008);

7. Completion of project review within any applicable time periods (including the 120-day permit processing time) (CHMC 19.05.008, 19.05.009). [RCW 36.70B.140.] (Ord. 771 § 2, 1997; Ord. 766 § 2, 1997; Ord. 738 § 1, 1996)

Chapter 19.02

TYPE I – IV PROJECT PERMIT APPLICATIONS

Sections:

19.02.001 Pre-application conference.

19.02.002 Project permit application.

19.02.003 Submission and acceptance of application.

19.02.004 Referral and review of project permit applications.

19.02.001 Pre-application conference.

A. Pre-application conferences are encouraged but not mandatory. The purpose of the pre-application conference is to acquaint the applicant with the code requirements.

B. Depending upon staff availability, pre-application conferences may be held within 15 days of the request.

C. At the conference, or within five working days of the conference, the applicant may request that the following be provided:

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

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

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

4. The city's design guidelines.

D. It is impossible for the conference to be an exhaustive review of all potential issues. The discussions at the conference or the form sent by the city to the applicant under subsection (C) of this section shall not bind or prohibit the city's future application or enforcement of all applicable law. (Ord. 738 § 1, 1996)

19.02.002 Project permit application.

Applications for project permits shall be submitted upon forms provided by the administrator. An application shall consist of all

materials required by the applicable development regulations, and shall include the following general information:

- A. A completed project permit application form;
- B. A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the consent of all owners of the affected property;
- C. A property and/or legal description of the site for all applications, as required by the applicable development regulations;
- D. The applicable fee;
- E. Evidence of adequate water supply as required by RCW 19.27.097; and
- F. Evidence of sewer availability. (Ord. 738 § 1, 1996)

19.02.003 Submission and acceptance of application.

A. **Determination of Completeness.** Within 28 days after receiving a project permit application, the city shall mail, by registered mail, return receipt requested, or personally provide a written determination to the applicant which states either: (1) that the application is complete; or (2) that the application is incomplete and what is necessary to make the application complete. [RCW 36.70B.070.]

B. **Identification of Other Agencies with Jurisdiction.** To the extent known by the city, other agencies with jurisdiction over the project permit application shall be identified in the city's determination required by subsection (A) of this section. [RCW 36.70B.070.]

C. **Complete Application – Additional Information.** A project permit application is complete for purposes of this section when it meets the submission requirements in CHMC 19.02.002, as well as the submission requirements contained in the applicable development regulations. This determination of completeness shall be made when the application is sufficient for continued processing even though

additional information may be required or project modifications may be undertaken subsequently. The city's determination of completeness shall not preclude the city from requesting additional information or studies either at the time of the notice of completeness or at some later time, if new information is required or where there are substantial changes in the proposed action. [RCW 36.70B.090(1).]

D. Incomplete Application Procedure.

1. If the applicant receives a determination from the city that an application is not complete, the applicant shall have 90 days to submit the necessary information to the city. Within 14 days after an applicant has submitted the requested additional information, the city shall make the determination as described in CHMC 19.02.003(A), and notify the applicant in the same manner.

2. If the applicant either refuses in writing to submit additional information or does not submit the required information within the 90-day period, the application shall lapse.

E. **City's Failure to Provide Determination of Completeness.** A project permit application shall be deemed complete under this section if the city does not provide a written determination to the applicant that the application is incomplete as required by subsection (A) of this section. [RCW 36.70B.070(4)(a).]

F. **Date of Acceptance of Application.** When the project permit application is complete, the administrator shall accept it and note the date of acceptance. (Ord. 738 § 1, 1996)

19.02.004 Referral and review of project permit applications.

Within 10 days of accepting a complete application, the administrator shall do the following:

A. Transmit a copy of the application, or appropriate parts of the application, to each affected agency and city department for review and comment, including those responsible for determining compliance with state and federal requirements. The affected agencies and city

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departments shall have 15 days to comment. The referral agency or city department is presumed to have no comments if comments are not received within the specified time period. The administrator shall grant an extension of time for comment only if the application involves unusual circumstances. Any extension shall only be for a maximum of three additional days. [RCW 36.70B.070.]

B. If Type III, IVA and IVB procedures are required, notice and hearing shall be provided as set forth in Chapter 19.03 CHMC. (Ord. 738 § 1, 1996)

Chapter 19.03

NOTICE OF APPLICATION AND PUBLIC NOTICE

Sections:

19.03.001 Notice of application.

19.03.003 Notice of public hearing.

19.03.001 Notice of application.

A. Generally. A notice of application shall issue on all Type III, IVA and IVB project permit applications. The city shall provide a notice of application to the public, city departments and agencies with jurisdiction as described in this chapter. [RCW 36.70B.110.]

B. SEPA Exempt Projects. A notice of application shall not be required for project permits that are categorically exempt under SEPA, unless a public comment period or an open record predecision hearing is required. [RCW 36.70B.140(2).]

C. Contents. The notice of application shall include:

1. The date of application, the date of the notice of completion for the application and the date of the notice of application;

2. A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070;

3. The identification of other permits not included in the application, to the extent known by the city;

4. 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. If the city has made a threshold determination or a determination of significance under Chapter 43.21C RCW before the notice of application is issued, the notice of application may include notice of the SEPA threshold determinations and scoping notices;

5. A statement of the limits of the public comment period, which shall be not less than

14 nor more than 30 days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;

6. The date, time, place and type of hearing, if applicable and scheduled at the date of notice of the application;

7. 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 of consistency as provided in Chapter 19.04 CHMC;

8. Any other information determined appropriate by the city. [RCW 36.70B.110.]

D. Time Frame for Issuance of Notice of Application.

1. Within 14 days after the city has made a determination of completeness of a project permit application, the city shall issue a notice of application.

2. If any open record predecision hearing is required for the requested project permit(s), the notice of application shall be provided at least 15 days prior to the open record hearing. [RCW 36.70B.110.]

E. Public Comment on the Notice of Application. All public comments received on the notice of application must be received by the city clerk by 5:00 p.m. on the last day of the comment period. Comments may be mailed, personally delivered or sent by facsimile. Mailed comments received after expiration of the comment period will not be accepted. Comments should be as specific as possible.

F. Except for threshold determinations, the city may not issue a decision or recommendation on a project permit until the expiration of the public comment period on the notice of application. [RCW 36.70B.110.]

G. Methods of Providing Notice of Application.

1. The city may use different types of notice of the application for different categories

of project permits or types of project actions. However, the city shall use at least one of the following methods of providing the notice of application for project permits: [RCW 36.70B.110(4).]

a. Posting. Posting of the property for site specific proposals shall consist of one or more notice boards as follows:

i. A single notice board shall be placed by the applicant:

(A) At the midpoint of the site street frontage or as otherwise directed by the city for maximum visibility;

(B) Five feet inside the street property line, except when the board is structurally attached to an existing building; provided, that no notice board shall be placed more than five feet from the street property without approval of the department;

(C) So that the top of the notice board is between seven to nine feet above grade; and

(D) Where it is completely visible to pedestrians.

ii. Additional notice boards may be required when:

(A) The site does not abut a public road;

(B) A large site abuts more than one public road; or

(C) The administrator determines that additional notice boards are necessary to provide adequate public notice.

iii. Notice boards shall be:

(A) Maintained in good condition by the applicant during the notice period;

(B) In place at least 15 days prior to the date of hearing, or 15 days prior to the end of any required comment period;

(C) Removed within 15 days after the end of the notice period.

iv. Removal of the notice board prior to the end of the notice period may be cause for discontinuance of the city's review until the notice board is replaced and remains in place for the specified time period.

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v. An affidavit of posting shall be submitted to the administrator by the applicant prior to the hearing or final comment date. If the affidavits are not filed as required, any scheduled hearing or date by which the public may comment on the application will be postponed in order to allow compliance with this notice requirement.

vi. Notice boards shall be constructed and installed in accordance with specifications promulgated by the city.

b. Published Notice. Published notice shall include at least the project location, description, type of permit(s) required, comment period dates, and location where the complete application may be reviewed, published in the city's official newspaper of general circulation in the general area where the proposal is located.

2. Preliminary Plats.

a. Notice of the filing of a preliminary plat adjacent to or within one mile of the municipal boundaries of a city or town, or which contemplates the use of any city or town utilities shall be given to the appropriate city or town authorities.

b. Notice of the filing of a preliminary plat of a proposed subdivision located in a city or town and adjoining the municipal boundaries thereof shall be given to the appropriate county officials.

c. Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport shall be given to the Secretary of Transportation, who must respond within 15 days of such notice. (Ord. 789 § 1, 1998; Ord. 766 § 3, 1997; Ord. 738 § 1, 1996)

19.03.003 Notice of public hearing.

If the public hearing on the project permit application was not scheduled at the time of issuance of the notice of application, or if the public hearing has been rescheduled or continued, a separate notice of public hearing shall

be issued by the city according to the procedures in this section.

A. Content of Notice of Public Hearing for all Types of Applications. The notice given of a public hearing required in this section shall contain:

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

2. Description of the affected property, which may be in the form of either a vicinity location or written description, other than a legal description;

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

4. A description of the subject property reasonably sufficient to inform the public of its location, including but not limited to the use of a map or postal address and a subdivision lot and block designation;

5. The nature of the proposed use or development;

6. A statement that all interested persons may appear and provide testimony;

7. The sections of the code that are pertinent to the hearing procedure;

8. When information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be admitted;

9. The name of the city representative to contact and the telephone number where additional information may be obtained;

10. That a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection or copying at the cost of the requestor;

11. That a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and copies will be provided at the requestor's cost.

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

1. Type I, Type II, and Type V Actions. No public notice is required because no public

hearing is held, except on an appeal of a Type II action.

2. Type III, IVA and IVB Actions. The notice of public hearing shall be mailed to:

- a. The applicant;
- b. All owners of property within 300 feet of the subject property;
- c. Any person who submits written or oral comments on an application.

3. Type III Preliminary Plat Actions. In addition to the notice in subsection (B)(2) of this section, additional notice shall be provided for preliminary plats as follows:

a. Notice shall be published not less than 10 days prior to the hearing in a newspaper of general circulation within the county and a newspaper of general circulation in the area where the real property which is proposed to be subdivided is located; and

b. Special notice of the hearing shall be given to adjacent landowners by any other reasonable method the city deems necessary. Adjacent landowners are the owners of real property, as shown by the records of the county assessor, located within 300 feet of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, notice required by this section shall be given to owners of real property located within 300 feet of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided. [RCW 58.17.090.]

4. Type V Actions. For Type V legislative actions, the city shall publish notice as described in subsection (C)(2) of this section, and provide any other notice required by the Planning Enabling Act.

5. General Procedure for Mailed Notice of Public Hearing.

a. The records of the King County department of records and elections shall be used for determining the property owner of

record. Addresses for a mailed notice required by this code shall be obtained from the King County real property tax records. The administrator shall issue a sworn certificate of mailing to all persons entitled to notice under this chapter. The administrator may provide notice to other persons than those required to receive notice under this code.

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

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

1. Posted notice of the public hearing is required for all Type III, IVA and IVB project permit applications. The posted notice shall be posted as required by CHMC 19.03.001 (G)(1)(a).

2. Published notice is required for all Type III, IVA, IVB and V procedures. The published notice shall be published in the city's official newspaper.

D. Time and Cost of Notice of Public Hearing.

1. Notice shall be mailed, posted and first published not less than 10 nor more than 30 days prior to the hearing date. Any posted notice shall be removed by the applicant within 15 days following the public hearing.

2. All costs associated with the public notice shall be borne by the applicant. (Ord. 738 § 1, 1996)

Chapter 19.04

CONSISTENCY WITH DEVELOPMENT REGULATIONS AND SEPA

Sections:

- 19.04.001 Determination of consistency.
- 19.04.002 Initial SEPA analysis.
- 19.04.003 Categorically exempt and planned actions.

19.04.001 Determination of consistency.

A. Purpose. When the city receives a project permit application, consistency between the proposed project and the applicable regulations and comprehensive plan should be determined through the process in this chapter and the city's adopted SEPA ordinance, CHMC Title 18.

B. Consistency. A proposed project's consistency with the city's development regulations adopted under Chapter 36.70A RCW, or, in the absence of applicable development regulations, the appropriate comprehensive plan or subarea plan adopted under Chapter 36.70A RCW shall be determined by consideration of:

1. The type of land use;
2. The level of development, such as units per acre or other measures of density;
3. Infrastructure, including public facilities and services needed to serve the development; and
4. The character of the development, such as development standards. [RCW 36.70B.040.]

C. Project Review. Project review by the city staff shall identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage swales, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts. During project review, neither the administrator nor any other city reviewing body may re-examine alternatives or hear appeals on matters found consistent with development regulations and/or the compre-

hensive plan, except for issues of code interpretation. (Ord. 766 § 4, 1997; Ord. 738 § 1, 1996)

19.04.002 Initial SEPA analysis.

A. Consistency with SEPA. The city shall also review the project permit application under the requirements of the State Environmental Policy Act ("SEPA"), Chapter 43.21C RCW, the SEPA Rules, Chapter 197-11 WAC, and the city environmental policy ordinance, CHMC Title 18, and shall:

1. Determine whether the applicable regulations require studies that adequately analyze all of the project permit application's specific probable adverse environmental impacts;
2. Determine if the applicable regulations require measures that adequately address such environmental impacts;
3. Determine whether additional studies are required and/or whether the project permit application should be conditioned with additional mitigation measures;
4. Provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level.

B. Adequate Analysis of Environmental Impacts in Existing Regulations. In its review of a project permit application, the city may determine that the requirements for environmental analysis, protection and mitigation measures in the applicable development regulations, comprehensive plan and/or in other applicable local, state or federal laws provide adequate analysis of and mitigation for the specific adverse environmental impacts of the application.

1. The city may make the determination provided for in this subsection (B) if:
 - a. In the course of project review, including any required environmental analysis,

the city considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, or other local, state, or federal rules or laws; and

b. The city bases or conditions its approval on compliance with these requirements or mitigation measures.

2. If the city's comprehensive plans, subarea plans and development regulations adequately address a project's probable specific adverse environmental impacts, as determined under this subsection (B), the city shall not impose additional mitigation under SEPA during project review. Project review shall be integrated with environmental analysis under this chapter.

3. A comprehensive plan, subarea plan or development regulation shall be considered to adequately address an impact if the city, through the planning and environmental review process under Chapters 36.70A and 43.21C RCW, has identified the specific adverse environmental impacts and:

a. The impacts have been avoided or otherwise mitigated; or

b. The city council has designated acceptable certain levels of service, land use designations, development standards or other land use planning required or allowed by Chapter 36.70A RCW.

C. No Additional Mitigation to be Imposed. If the city bases or conditions its approval of the project permit application on compliance with the requirements or mitigation measures described in subsection (A) of this section, the city shall not impose additional mitigation under SEPA during project review.

D. Consultations with Other Agencies. In its decision whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with

regard to a specific environmental impact, the city shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the city shall base or condition its project approval on compliance with these other existing rules or laws.

E. No Limitation on City's SEPA Authority. Nothing in this section limits the authority of the city in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by Chapter 43.21C RCW.

F. Further Review to Proceed Under SEPA Ordinance. The city shall also review the application under Chapter 18.04 CHMC, the city environmental policy ordinance; provided, that such review shall be coordinated with the underlying permit application review. (Ord. 766 § 5, 1997; Ord. 738 § 1, 1996)

19.04.003 Categorically exempt and planned actions.

A. Categorically Exempt. Actions categorically exempt under RCW 43.21C.110(1)(a) do not require environmental review or the preparation of an environmental impact statement. An action that is categorically exempt under the rules adopted by the Department of Ecology (Chapter 197-11 WAC) may not be conditioned or denied under SEPA. [RCW 43.21C.031.]

B. Planned Actions.

1. A planned action does not require a threshold determination or the preparation of an environmental impact statement under SEPA, but is subject to environmental review and mitigation under SEPA.

2. A "planned action" means one or more types of project action that:

a. Are designated planned actions by an ordinance or resolution adopted by the city;

b. Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with:

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i. A comprehensive plan or sub-area plan adopted under Chapter 36.70A RCW, or

ii. A fully contained community, a master planned resort, a master planned development or a phased project;

c. Are subsequent or implementing projects for the proposals listed in subsection (B)(2)(b) of this section;

d. Are located within an urban growth area, as defined in RCW 36.70A.030;

e. Are not essential public facilities, as defined in RCW 36.70A.200; and

f. Are consistent with the city's comprehensive plan adopted under Chapter 36.70A RCW. [RCW 43.21C.031.]

C. Limitations on Planned Actions. The city shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the city, and may limit a planned action to a time period identified in the environmental impact statement or in the ordinance or resolution designating the planned action under RCW 36.70A.040. [RCW 43.21C.031.]

D. Limitations on SEPA Review. During project review, the city shall not re-examine alternatives to or hear appeals on the items identified in CHMC 19.04.001(B), except for issues of code interpretation. Project review shall be used to identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage swales, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts. [RCW 36.70B.030(3).] (Ord. 738 § 1, 1996)

Chapter 19.05

OPEN RECORD PUBLIC HEARINGS

Sections:

19.05.001 General.

19.05.002 Responsibility of administrator for hearing.

19.05.003 Conflict of interest – Ethics – Open public meetings – Appearance of fairness.

19.05.004 Ex parte communications.

19.05.005 Disqualification.

19.05.006 Burden and nature of proof.

19.05.007 Order of proceedings.

19.05.008 Findings and notice of decision.

19.05.009 Calculation of time periods for issuance of notice of final decision.

19.05.001 General.

Public hearings on all project permit applications shall be conducted in accordance with this chapter. [RCW 36.70B.020(3).] (Ord. 738 § 1, 1996)

19.05.002 Responsibility of administrator for hearing.

The administrator shall:

A. Schedule an application for review and public hearing;

B. Give notice;

C. Prepare the staff report on the application, which shall be a single report stating all of the decisions made as of the date of the report, including recommendations on project permits in the consolidated permit process that do not require an open record predecision hearing. The report shall state any mitigation required or proposed under the development regulations or the city's authority under SEPA. If the threshold determination other than a determination of significance has not been issued previously by the city, the report shall include or append this determination. In the case of a Type I or II project permit application, this report may be the permit;

D. Prepare the notice of decision, if required by the hearing body, and/or mail a copy of the notice of decision to those required by this code to receive such decision. (Ord. 738 § 1, 1996)

**19.05.003 Conflict of interest – Ethics –
Open public meetings –
Appearance of fairness.**

The hearing body shall be subject to the code of ethics (RCW 35A.42.020), prohibitions on conflict of interest (RCW 35A.42.020 and Chapter 42.23 RCW) open public meetings (Chapter 42.30 RCW), and appearance of fairness (Chapter 42.36 RCW) as the same now exist or may hereafter be amended. (Ord. 738 § 1, 1996)

19.05.004 Ex parte communications.

A. Quasi-judicial land use decisions of the hearing body shall be subject to Chapter 42.36 RCW, the appearance of fairness doctrine.

B. During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding. If a member of the decision-making body receives an ex parte communication in violation of this section, he or she shall place on the record:

1. All written communications received;
2. All written responses to the communications;
3. The substance of all oral communications received, and all responses made; and
4. The identity of each person from whom the member received any ex parte communication.

The decision-making body shall advise all parties at each hearing where action is considered or taken on the subject to which the communication related, that these matters have been placed on the record. Upon request made after notice of the ex parte communication, any party desiring to rebut the communication

shall be allowed to place a rebuttal statement on the record.

This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding. (Ord. 766 § 6, 1997; Ord. 738 § 1, 1996)

19.05.005 Disqualification.

A. No member of the hearing body may be disqualified by the appearance of fairness doctrine for conducting the business of his or her office with any constituent on any matter other than a quasi-judicial action then pending before the hearing body.

B. Prior to declaring as a candidate for public office or while campaigning for public office, as defined by RCW 42.17.020(5) and (25), no public discussion or expression of an opinion by a person subsequently elected to a public office, on any pending or proposed quasi-judicial actions, shall be a violation of the appearance of fairness doctrine.

C. Anyone seeking to rely upon the appearance of fairness doctrine to disqualify a member of a decision-making body from participating in a decision must raise the challenge as soon as the basis for disqualification is made known to the individual. Where the basis is known or should reasonably have been known prior to the issuance of a decision and is not raised, it may not be relied on to invalidate the decision.

D. In the event of a challenge to a member or members of the hearing body which would cause a lack of a quorum or would result in a failure to obtain a majority vote as required by law, any such challenged member(s) shall be permitted to fully participate in the proceeding and vote as though the challenge had not

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occurred if the member(s) publicly disclose the basis for disqualification prior to rendering a decision. Such participation shall not subject the decision to a challenge by reason of violation of the appearance of fairness doctrine. (Ord. 738 § 1, 1996)

19.05.006 Burden and nature of proof.

Except for Type V actions, the burden of proof for demonstrating that the application is consistent with the applicable regulations is on the proponent. The project permit application must be supported by proof that it conforms to the applicable elements of the city's development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed. (Ord. 738 § 1, 1996)

19.05.007 Order of proceedings.

The order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.

A. Before receiving information on the issue, the following shall be determined:

1. Any objections on jurisdictional grounds shall be noted on the record and if there is objection, the hearing body has the discretion to proceed or terminate.

2. Any abstentions or disqualifications shall be determined.

B. The presiding officer may take official notice of known information related to the issue, such as:

1. A provision of any ordinance, resolution, rule, officially adopted development standard or state law;

2. Other public records and facts judicially noticeable by law.

C. Matters officially noticed need not be established by evidence and may be considered by the hearing body in its determination. Parties requesting notice shall do so on the record. However, the hearing body may take notice of matters listed in subsection (B) of this

section if stated for the record. Any matter given official notice may be rebutted.

D. The hearing body may view the area in dispute with or without notification to the parties, but shall place the time, manner and circumstances of such view on the record.

E. Information shall be received from the staff and from proponents and opponents. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.

F. When the presiding officer has closed the public hearing portion of the hearing, the hearing body shall openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided. (Ord. 738 § 1, 1996)

19.05.008 Findings and notice of decision.

A. Following the hearing procedure described in CHMC 19.05.007, the hearing body shall approve, conditionally approve, or deny the application. If the hearing is an appeal, the hearing body shall affirm, reverse or remand the decision that is on appeal.

B. The hearing body's written decision shall issue on or before the next regularly scheduled meeting of the hearing body following the close of the record of the hearing on the project permit application and within 90 days of the opening of the hearing, unless a longer period is agreed to by the parties. The notice of final decision shall issue according to the following time frames:

1. Within 120 days after the city notifies the applicant that the application for a project permit is complete; [RCW 36.70B.090.]

2. Within 90 days after the city notifies the applicant that a preliminary plat application is complete; or

3. Within 30 days after the city notifies the applicant that a short plat or final plat application is complete. [RCW 58.17.140.]

The time frames set forth in this section and CHMC 19.05.009 shall apply to project permit applications filed on or after April 1, 1996.

C. The city shall provide a notice of decision that also includes a statement of any threshold determination made under SEPA (Chapter 43.21C RCW) and the procedures for administrative appeal, if any. For Type II, III, IVA and IVB project permits, the notice of decision on the issued permit shall contain the requirements set forth in CHMC 19.04.002 (A).

D. The notice of decision shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application. In addition, the city shall provide public notice of the notice of decision as provided in CHMC 19.03.001 (G)(1)(b).

E. If the city is unable to issue its final decision on a project permit application within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of decision. [RCW 36.70B.090.] (Ord. 814 § 1, 2000; Ord. 766 § 7, 1997; Ord. 738 § 1, 1996)

19.05.009 Calculation of time periods for issuance of notice of final decision.

A. In determining the number of days that have elapsed after the local government has notified the applicant that the application is complete for purposes of calculating the time for issuance of the notice of final decision, the following periods shall be excluded:

1. Any period during which the applicant has been requested by the city to correct plans, perform required studies, or provide

additional required information. The period shall be calculated from the date the city notifies the applicant of the need for additional information until the earlier of the date the local government determines whether the additional information satisfies the request for information or 14 days after the date the information has been provided to the city;

2. If the city determines that the information submitted by the applicant under subsection (A)(1) of this section is insufficient, it shall notify the applicant of the deficiencies and the procedures under subsection (A)(1) shall apply as if a new request for studies had been made;

3. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW, if the city by ordinance has established time periods for completion of environmental impact statements, or if the local government and the applicant in writing agree to a time period for completion of an environmental impact statement;

4. Any period for administrative appeals of project permits, if an open record appeal hearing or a closed record appeal, or both, are allowed. The time period for consideration and decision on appeals shall not exceed:

a. Ninety days for an open record appeal hearing; and

b. Sixty days for a closed record appeal;

5. The parties may agree in writing to extend these time periods. Any extension of time mutually agreed upon by the applicant and the city in writing.

B. The time limits established in this title do not apply if a project permit application:

1. Requires an amendment to the comprehensive plan or a development regulation;

2. Requires approval of the siting of an essential public facility as provided in RCW 36.70A.200;

3. Is an application for a permit or approval described in CHMC 19.01.007; or

4. Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete under RCW 36.70B.070. [RCW 36.70B.090.] (Ord. 738 § 1, 1996)

Chapter 19.06

**CLOSED RECORD DECISIONS
AND APPEALS**

Sections:

- 19.06.001 Appeals of decisions.
- 19.06.002 Consolidated appeals.
- 19.06.003 Standing to initiate administrative appeal.
- 19.06.004 Closed record decisions and appeals.
- 19.06.005 Procedure for closed record decision/appeal.
- 19.06.006 Judicial appeals.
- 19.06.007 Resubmission of application.

19.06.001 Appeals of decisions.

Project permit applications shall be appealable as provided in the framework in CHMC 19.01.003. [RCW 36.70B.090(1)(c).] (Ord. 738 § 1, 1996)

19.06.002 Consolidated appeals.

A. All appeals of project permit application decisions, other than an appeal of determination of significance (“DS”), shall be considered together in a consolidated appeal. [RCW 43.21C.075, 36.70B.060(6).]

B. Appeals of environmental determinations under SEPA, CHMC Title 18, shall proceed as provided in that chapter. (Ord. 738 § 1, 1996)

19.06.003 Standing to initiate administrative appeal.

A. Limited to Parties of Record. Only parties of record may initiate an administrative appeal of a Type II, III or IV decision on a project permit application.

B. Definition. The term “parties of record” for the purposes of this chapter shall mean:

1. The applicant;
2. Any person who testified at the open record public hearing on the application; and/or

3. Any person who submitted written comments concerning the application at the open record public hearing (excluding persons who have only signed petitions or mechanically produced form letters);

4. The city council. (Ord. 738 § 1, 1996)

19.06.004 Closed record decisions and appeals.

A. Administrative Appeals of Project Permit Decisions or Recommendations. Appeals of the hearing body's decision or recommendation on project permit application shall be governed by the following:

1. Standing. Only parties of record have standing to appeal the city's final decision.

2. Time to File. An appeal of the final decision must be filed within 14 calendar days following issuance of the written decision. Appeals may be delivered to the community development department by mail, personal delivery or by fax before 5:00 p.m. on the last business day of the appeal period.

3. Computation of Time. For the purposes of computing the time for filing an appeal, the day the final decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, or a day designated by RCW 1.16.050 or by the city's ordinances as a legal holiday, then it also is excluded and the filing must be completed on the next business day. [RCW 35A.21.080.]

4. Content of Appeal. Appeals shall be in writing, be accompanied by an appeal fee, and contain the following information:

a. Appellant's name, address and phone number;

b. Appellant's statement describing his or her standing to appeal;

c. Identification of the application which is the subject of the appeal;

d. Appellant's statement of grounds for appeal and the facts upon which the appeal is based;

e. The relief sought, including the specific nature and extent;

f. A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.

5. Effect. The timely filing of an appeal shall stay the effective date of the final decision until such time as the appeal is adjudicated by the council or withdrawn.

6. Notice of Appeal. The administrator shall provide public notice of the appeal as provided in CHMC 19.03.003(B)(2)(a) and (B)(2)(c). (Ord. 738 § 1, 1996)

19.06.005 Procedure for closed record decision/appeal.

A. Closed record appeals shall be on the record established at the hearing before the hearing body whose decision is appealed. The record shall include: the written decision of the hearing body, a transcript or tape recording of the proceedings, and copies of any exhibits admitted into the record. No new testimony or other evidence will be accepted except: (1) new information that was unknown to the parties at the time of the hearing which could not reasonably have been discovered by the parties and is necessary for a just resolution of the appeal; and (2) relevant information that, in the opinion of the city council, was improperly excluded by the hearing body.

B. Appellants who believe that information was improperly excluded must specifically request, in writing prior to the closed record appeal, that the information be made part of the record. The request shall describe the information excluded, its relevance to the issues appealed, the reason(s) that the information was excluded by the hearing body, and why the hearing body erred in excluding the information. No reference to excluded information shall be made in any presentation to the council on the merits, written or oral, until the council has determined that the information should be admitted.

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C. Parties to the appeal may present written and/or oral arguments to the council. Argument shall describe the particular errors committed by the hearing body, with specific references to the appeal record.

D. The hearing shall commence with a presentation by the administrator, or the administrator's designee, of the general background and the issues in dispute. After the administrator's presentation, the appellant(s), then the other parties of record shall present their arguments. Councilmembers may question any party concerning disputed issues, but shall not request information not in the record.

E. The council may affirm, reverse or, upon written agreement by the applicant to waive the statutory prohibition against more than one open record and one closed record hearing, and, if needed, the applicant's waiver of the requirement for a decision in 120 days, remand the decision to the hearing body for additional information. (Ord. 766 § 8, 1997)

19.06.006 Judicial appeals.

After exhaustion of any available appeal, the city's final decision on an application may be appealed by a party of record with standing to file a land use petition in King County superior court under Chapter 36.70C RCW. Such petition must be filed within 21 days of issuance of the decision, as provided in Chapter 36.70C RCW. [Chapter 36.70C RCW.] (Ord. 738 § 1, 1996)

19.06.007 Resubmission of application.

Any permit application or other request for approval submitted pursuant to this chapter that is denied shall not be resubmitted or accepted by the responsible official for reconsideration for a period of 12 months from the date of the last action by the city on the application or request unless, in the opinion of the responsible official, there has been a significant change in the application or a significant change in conditions related to the impacts of the proposed project. (Ord. 766 § 9, 1997)

Chapter 19.08

COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS AMENDMENTS

Sections:

- 19.08.010 Purpose.
- 19.08.020 Type of action.
- 19.08.030 Suggesting amendments.
- 19.08.040 Applications for plan amendments.
- 19.08.050 Identified deficiencies.
- 19.08.060 Docketing suggested amendments.
- 19.08.070 Timing and order of consideration of suggested amendments.
- 19.08.080 Public participation.
- 19.08.090 Denial of suggested amendments.
- 19.08.100 Notice to county assessor of changes in comprehensive plan and development regulations.

19.08.010 Purpose.

The purpose of this chapter is to establish the type of action and procedures for suggesting amendments and encouraging public participation for comprehensive plan and development regulation amendments. (Ord. 820 § 1, 2000)

19.08.020 Type of action.

A comprehensive plan, or development regulation amendment is a Type V action and shall be considered in accordance with the procedures for such actions as set forth in this chapter. (Ord. 820 § 1, 2000)

19.08.030 Suggesting amendments.

Amendments to the comprehensive plan, or development regulations are governed by Chapter 36.70A RCW, also known as the Growth Management Act, and may be suggested by any person, including applicants, citizens, hearing examiners and staff of other agencies by providing the following written information on a form approved by the city administrator to meet the docketing requirements of this chapter:

A. Name, address and telephone number of the person, business, agency or other organization suggesting the amendment;

B. Citation of the specific text, map or other illustration suggested to be amended;

C. The suggested amendment;

D. If a suggested amendment is to a plan or to both a plan and a development regulation, a statement of how the amendment:

1. Promotes the public health, safety and welfare;

2. Is consistent with or in conflict with other portions of the comprehensive plan, which portions shall be cited by goal, policy and/or action reference number, and by page number; and

3. Complies with the applicable county-wide planning policies;

E. If a suggested amendment is only to the development regulations, a statement as to how the amendment complies with the comprehensive plan. (Ord. 820 § 1, 2000)

19.08.040 Applications for plan amendments.

In addition to the review of suggested amendments, the city will review an application for a comprehensive plan change filed by an interested person. The applicant shall pay such fees established by the city through its master fee resolution. (Ord. 820 § 1, 2000)

19.08.050 Identified deficiencies.

If during the review of any project permit application the city identifies any deficiencies in plans or development regulations, the identified deficiencies shall be docketed on a form as provided in CHMC 19.08.030, for possible future plan or development regulation amendments. "Deficiency" as used herein means the absence of required or potentially desirable contents of a comprehensive plan, or development regulation. (Ord. 820 § 1, 2000)

19.08.060 Docketing suggested amendments.

The city administrator shall compile and maintain for public review a list of suggested amendments and "identified deficiencies" to the comprehensive plan, and the city's development regulations, which list shall be arranged by appropriate classifications and shall name the individual or organization suggesting each amendment and identifying each deficiency. (Ord. 820 § 1, 2000)

19.08.070 Timing and order of consideration of suggested amendments.

A. Suggested amendments to the comprehensive plan or development regulations shall be considered at least once each calendar year, but the comprehensive plan shall be amended no more often than once each calendar year, except that amendments may be considered more frequently for the initial adoption of a subarea plan, the adoption of a shoreline master program, in cases of emergency, or to resolve an appeal of an adopted comprehensive plan filed with a Growth Management Board or with a court. The city council shall initiate consideration of suggested amendments by motion requesting the planning commission and, where applicable, other advisory bodies to prepare a recommendation. The council and its advisory bodies (with concurrence of the council) may prioritize suggested amendments for further consideration and may defer to future years or decline to further consider suggested amendments.

B. Suggested amendments shall be considered by the planning commission and, where applicable, other advisory bodies, in public hearings, public meetings, workshops, and other settings as warranted to ensure that each suggested amendment is thoroughly deliberated. Advisory bodies other than the planning commission which are considering suggested comprehensive plan amendments shall collaborate with the planning commission in the

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development of recommendations to the city council. All recommendations concerning suggested comprehensive plan amendments shall be considered concurrently by the city council. The annual deadline for submitting suggested plan amendments shall be October 31st, unless otherwise stated by the city council.

C. The planning commission and city council shall endeavor to consider suggested plan amendments between January and June, and suggested development regulations implementing plan changes between July and December of each year. Where amendments to both a plan and development regulations are suggested, or where an amendment to the comprehensive plan would be implemented by an amendment to the development regulations, such amendments may be considered concurrently. (Ord. 820 § 1, 2000)

19.08.080 Public participation.

The public shall be made aware of the opportunity to suggest amendments and to comment on suggested amendments through methods including, but not limited to, direct mailings, newsletter and newspaper articles, legal advertisements, and notices posted in public places. Public notice requirements shall be as set forth in Chapter 19.03 CHMC. (Ord. 820 § 1, 2000)

19.08.090 Denial of suggested amendments.

When a suggested amendment to a comprehensive plan or development regulations is denied, the amendment shall not be considered again for a period of at least three years, unless the city council determines that the amendment should be considered again in a shorter time period. (Ord. 820 § 1, 2000)

19.08.100 Notice to county assessor of changes in comprehensive plan and development regulations.

The city administrator shall provide to the county assessor of King County by July 31st of each year a copy of the city's comprehensive plan and development regulations in effect on July 1st of that year. (Ord. 820 § 1, 2000)