

**Title 14**

**PROJECT PERMIT PROCESS**

**Chapters:**

**14.04 Project Permit Process**

## Chapter 14.04

### PROJECT PERMIT PROCESS

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#### 14.04.010 Definitions.

A. "Application" means any application for a land use or development permit as required by the town for a project action, including but not limited to (1) variances, (2) boundary line revisions, subdivisions, short subdivisions, and (3) shoreline substantial development permits, but excluding those matters listed in YPMC 14.04.110.

B. "Closed record appeal" means an administrative appeal on the record to the council following an open record hearing on an application. The appeal must be on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

C. "Commission" means the planning commission of the town of Yarrow Point, Washington.

D. "Council" means the council of the town of Yarrow Point, Washington.

E. "Open record hearing" means a hearing conducted by the planning commission, the council, or the town hearing examiner, as

appropriate, that creates the town hearing record through testimony and submission of evidence and information.

F. "Public meeting" means a meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the town's decision. A public meeting may include, but is not limited to, a regular or special meeting of the planning commission or the council at which the application is discussed but no testimony is received nor action taken. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the town's application file.

G. "Town" means the town of Yarrow Point, Washington. (Ord. 496 § 1, 2000)

#### 14.04.020 Applications requiring review at a public hearing.

A. The town hearing examiner reviews applications for variances at a public hearing.

B. The planning commission reviews applications for boundary line revisions, subdivisions, short subdivisions, and substantial development permits at a public meeting, and thereafter makes a recommendation to the council, which shall hold an open record hearing on the application. (Ord. 496 § 2, 2000)

#### 14.04.030 Consolidation of application reviews.

Upon written request by the applicant or the town, any two or more applications that require review by the planning commission, council, or hearing examiner may be consolidated for review before the appropriate body. (Ord. 496 § 3, 2000)

**14.04.040 Determination of completeness of application.**

A. Within 28 days after receiving an application, the town shall mail or provide in person a written determination stating either:

1. That the application is complete; or
2. That the application is incomplete and outlining what is necessary to make the application complete.

B. The determination shall, to the extent known to the town, identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.

C. The application shall be considered complete for the purposes of this section when it meets the procedural submission requirements of the town ordinance governing the type of permit for which the application is made and shall be considered sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently.

D. A determination of completeness shall not preclude the town from requesting additional information or studies if new information is required or if there are substantial changes in the proposed action.

E. The determination of completeness may include other information that the town has reason to include.

F. After a determination that the initial application is incomplete, the town shall issue a new determination of completeness within 14 days after an applicant has submitted the additional information requested.

G. An application shall be deemed complete under this section if the town does not provide a written determination to the applicant that the application is incomplete.

H. After receiving a notice of incomplete application, the applicant shall have 90 days in which to address the issue or the application shall be deemed void. (Ord. 496 § 4, 2000)

**14.04.050 Designation of representative.**

The town may require the applicant to designate a single person or entity to receive the determinations and notices required by this chapter. (Ord. 496 § 5, 2000)

**14.04.060 Public notice of application.**

A. The town shall provide a public notice of application within 14 days after the determination of completeness for any application that requires review at a public hearing by the council or town hearing examiner. This notice of application shall include:

1. The date of application, the date of the notice of the determination of completeness for the application, and the date of the public notice of application.

2. A description of the proposed action, a list of the project permits included in the application, and if applicable, a list of any studies requested by the town.

3. The identification of other permits known to the town to be needed, but not included in the application.

4. The identification of existing environmental documents that evaluate the proposed project and where the application and any studies can be reviewed.

5. A statement of the public comment period, which shall be not less than 14 days nor more than 30 days following the date of public notice of application, and a statement of the right of any person to comment on the application, to receive notice of and to participate in any hearings, to request a copy of the decision once made, and to appeal the decision. The town shall accept public comments at any time prior to the closing of any open record public hearing.

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

7. A statement of the preliminary determination, if one has been made at the time of public notice, of consistency with the town's

development regulations and comprehensive plan.

8. Any other information determined appropriate by the town.

B. The town shall post and publish the public notice of application as required by town ordinance.

C. Copies of the public notice of application shall be forwarded to all local, state, or federal departments or agencies that have jurisdiction over any actions relating to an application. (Ord. 496 § 6, 2000)

#### **14.04.070 Environmental review.**

A. Any necessary environmental review related to an application shall be consolidated with the review of the application. Actions that are categorically exempt under the rules adopted by the Washington State Department of Ecology do not require environmental review and may not be conditioned or denied under the State Environmental Policy Act.

B. In its decision whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with both the jurisdiction and the environmental expertise with regard to a specific environmental impact, the town may consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the town shall base or condition its project approval on compliance with the existing rules or laws of that agency.

C. Nothing in this section limits the ability of the town in its review or mitigation of a project to adopt or rely otherwise on environmental analysis and requirements. (Ord. 496 § 7, 2000)

#### **14.04.080 Open record public hearings.**

A. Before acting on one of the applications set forth in YPMC 14.04.020 and 14.04.030, the appropriate hearing body shall conduct an open record public hearing. The burden of proof shall be on the applicant. The application

must be supported by proof that it conforms to the applicable elements of the town's development regulations, comprehensive plan and zoning code.

B. Prior to the open record public hearing, the hearing body shall cause to be prepared and submitted a single report describing all prior decisions or recommendations made that affect the permit under consideration. The report shall state any mitigation measures required or proposed and shall include or append any threshold environmental determination other than a determination of significance.

C. In addition to any rules adopted by the hearing body, the following rules of procedure shall apply:

1. A member of the hearing body who is disqualified shall be counted for purposes of forming a quorum. Any member who is disqualified shall make full disclosure to the audience, abstain from expressing any opinion or voting on the proposal, and physically leave the hearing room.

2. A member absent during the presentation of evidence in a hearing may not participate in the deliberations or decision unless the member has reviewed the evidence received.

3. Any member of the hearing body may view the site to which the application pertains, with or without notice to the parties; however, such visits and any ex parte communication pertaining to the application must be disclosed at the hearing.

4. The presiding officer shall describe, or cause to be described, for the record all written materials relating to the application that have been received by the hearing body.

5. When the presiding officer has closed the public portion of the hearing, the hearing body shall openly discuss the issue and may further question staff or a person submitting information, provided an opportunity for rebuttal is provided.

6. Following the hearing, the hearing body shall approve, approve with conditions, or deny the application. On appeal, the hearing body shall affirm, reverse, or remand the decision that is on appeal.

7. The decision of the hearing body shall be deemed to have been entered into the public record at the time a motion is passed that sets forth the decision.

8. The decision of the hearing body shall be substantiated in written findings and conclusions based on the testimony and written exhibits submitted at the public hearing. The date that such findings are approved shall be the date of action on the application. The time for appeal from the decision shall commence at such time.

9. The town shall provide a notice of decision, including the written findings and conclusions and a statement of any threshold determination made under SEPA. The notice of decision shall be provided to the applicant and to any person who requests notice of the decision. If the notice is delivered by mail, notification will be deemed complete three days after mailing by regular mail.

10. Any party of record may file a motion for reconsideration. Such request for reconsideration must be filed within 14 days of notification of the decision. The hearing body shall consider the request for reconsideration at its next regular meeting and may either grant or deny the request for reconsideration. If the hearing body grants the request for reconsideration, no action shall be taken upon the permit application until after a new open record public hearing has been scheduled with notice given as in the case of a new application, together with notice to all persons entitled to notice of the original decision. Requests for reconsideration shall only be granted if at least one of the following elements is established:

a. An irregularity in the original open record public hearing prevented the applicant from receiving a fair hearing.

b. New material evidence is discovered which the party applying for reconsideration could not have reasonably discovered and produced at the hearing.

c. One or more errors in law were objected to at the time of the hearing by the party filing the request for reconsideration and the objection is found to have merit. (Ord. 496 § 8, 2000)

#### **14.04.090 Deadline for final decision by the town.**

A. Except as otherwise provided in this section, the town shall issue its notice of final decision on an application within 120 days after the town has notified the applicant that the application is complete. In determining the number of days that have elapsed after the town has notified the applicant that the application is complete, the following periods shall be excluded:

1. Any period during which the town has requested that the applicant correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the local government notifies the applicant of the need for additional information until the earlier of the date the town determines whether the additional information satisfies the request for information or 14 days after the date the information has been provided to the town.

2. Any period during which an environmental impact statement is being prepared following a determination of significance.

3. Any extension of time mutually agreed upon by the applicant and the town.

B. The time limits set forth in this section shall not apply if an application requires an amendment to the town's comprehensive plan or the town ordinances or 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 as set forth in YPMC 14.04.020.

C. If the town is unable to issue its final decision 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 final decision. (Ord. 496 § 9, 2000)

**14.04.100 Reconsideration.**

A. The action of the hearing examiner on an application shall be final and conclusive unless, within 14 days from the date of the action, the original applicant or an adverse party makes application to the council for reconsideration.

B. The action of the council on an application shall be final and conclusive unless, within 14 days from the date of the action, the original applicant or an adverse party files a land use petition in a court of competent jurisdiction. (Ord. 496 § 10, 2000)

**14.04.110 Exclusions.**

The following matters are excluded from the requirements of this chapter:

A. Building, mechanical, and street-opening permits.

B. Street vacations.

C. Approvals relating to the use of public areas or facilities.

D. Landmark designations.

E. Amendments to the comprehensive plan.

F. The adoption or amendment of ordinances or regulations relating to land use and development. (Ord. 496 § 11, 2000)