



CITY OF EDGEWOOD

PLANNING COMMISSION MEETING AGENDA

Wednesday, November 6, 2024 – 6:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

Virtual Meeting Via Zoom
Zoom Meeting ID: 970 6596 9184

1. CALL TO ORDER

- a. Pledge of Allegiance and Role Call

2. CONSENT AGENDA: *All matters listed under Item 2, Consent Agenda, are considered routine in nature and will be enacted by one motion. Individual discussion of these items is not planned. A member, however, may remove any item to discuss as an item for separate consideration under New Business.*

- a. Agenda Approval or Modifications
- b. Review Planning Commission meeting minutes from October 14, 2024

3. CITIZEN COMMENT PERIOD *This portion of the agenda is reserved for the public to comment on items not on the agenda. The Planning Commission may invite additional public comment on agenda items noted for discussion later in the meeting.*

4. PUBLIC HEARINGS

- a. Comprehensive Plan Update
- b. SB 5290 - Review Process Code Updates

5. ACTION ITEMS

- a. General Sewer Plan Update

6. DISCUSSION ITEMS

- a. Comprehensive Plan Update
- b. SB 5290 - Review Process Code Updates
- c. Animals / Livestock
- d. House Bill 1181 Climate Planning
- e. Non-Conforming Uses and Lawful Establishment Date

7. STAFF COMMENTS

8. COMMISSIONER UPDATES

9. ADJOURN

This meeting is accessible to persons with disabilities. For individuals who may require special accommodations, please contact City Hall at (253) 952.3299, 24 hours in advance.



CITY OF EDGEWOOD

PLANNING COMMISSION MEETING AGENDA SUMMARY

Monday, October 14, 2024 – 6:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1 CALL TO ORDER

a. Pledge of Allegiance and Roll Call

Vice Chair Guillory called the meeting to order at 6pm and led attendees in the Pledge of Allegiance. **Present:** Carly Guillory (Via Zoom), JoAnn Overfield (Via Zoom), Tom Greene, Sarah Wagner, Jan Furey, Leyla Church, Carly Lenoir **Staff Present:** Senior Planner Dorner, Community Development Director Metzler, Planning Manager Kubitza

2 CONSENT AGENDA:

a. Agenda Approval or Modifications

b. Review Planning Commission meeting minutes from September 9, 2024

Motion: As Read **Action:** Approve, **Moved by:** Chair Overfield **Seconded by:** Commissioner Wagner **Motion Passed 7-0**

3 CITIZEN COMMENT PERIOD

Deputy Mayor Rosanne Tomyn spoke.

4 PUBLIC HEARINGS

a. General Sewer Plan (GSP) Update

Vice Chair Guillory opened the Public Hearing and Community Development Director Metzler gave a brief overview of the hearing topic. There were no public comments, and Vice Chair Guillory closed the Public Hearing.

5 ACTION ITEMS

a. Naming Ordinance and Policy

Motion: As Read **Action:** Approve, **Moved by:** Chair Overfield **Seconded by:** Commissioner Furey **Motion Passed 7-0**

6 DISCUSSION ITEMS

a. General Sewer Plan (GSP) Update

Community Development Director Metzler briefed the Commissioners on this agenda item noting their formal recommendation to the Council is tentatively scheduled for the November 6, 2024 Regular Council Meeting.

b. Comprehensive Plan Update – Capital Facilities & Utilities Element

Commissioners reviewed the update and were invited to provide feedback on the materials for incorporation and consideration as staff continue to draft revisions to the Comprehensive Plan.

c. Comprehensive Plan Update – Complete Draft Review

Commissioners were invited to provide feedback on the provided materials for staff consideration in preparation for the October 23, 2024, open house.

d. SB 5290 – Review Process Code Updates

Staff asked that the Commissioners review the proposed redlines to the DRAFT EMC's in order to provide input on which RCW 36.70B.160(1) should be further reviewed by the staff.

e. Animals / Livestock

Commissioners were asked to review the proposed amendments and provide staff with their feedback, noting the proposed amendments would be issued for public comment through SEPA subject to any proposed changes by the Planning Commission.

7 STAFF COMMENTS

Planning Manager Kubitza spoke briefly.

8 COMMISSIONER UPDATES

Vice Chair Guillory spoke.

9 ADJOURN

Chair Guillory adjourned the meeting at 8:55pm.



CITY OF EDGEWOOD STAFF REPORT PLANNING COMMISSION AGENDA ITEM

Date: November 6, 2024

Title: Comprehensive Plan Periodic Update – Public Hearing

Attachments: [Edgewood Comprehensive Plan \(cityofedgewood.org\)](https://www.cityofedgewood.org/cityofedgewood.org)
Also see <https://www.cityofedgewood.org/434>
EDAB Recommendation for Economic Development Element

Submitted By: Jeremy Metzler, PE – Community Development Director

Background Information:

Comprehensive Plans set the goals and policies that serve as the day-to-day guide for City staff and representatives, including City Council and the Mayor. Edgewood is in the process of planning for its future by performing a periodic update of its Comprehensive Plan. The concept of “growth management” is central to city planning in Washington State. The Growth Management Act (GMA) is a series of state statutes, first adopted in 1990, focused on managing population growth throughout Washington. The Growth Management Act requires cities and counties to update their own Comprehensive Plans to stay current on population growth and other key topics like housing, transportation, parks and recreation, capital facilities, utilities, land use and zoning, economic development, and the environment.

Current Discussion:

The City’s consultant presented the Complete Draft of the Comprehensive Plan Periodic Update for the Planning Commission’s review and consideration at last month’s meeting (viewable here, starting at 1hr 1min: <https://vimeo.com/1019837132>). This includes all of the elements that have been reviewed by the Planning Commission previously and any feedback received as of that meeting. The City also hosted an Open House on October 23, 2024 at 6:00pm, and the recorded presentation and discussion can be viewed here: <https://vimeo.com/1024432119>.

The currently open SEPA public comment period is set to close with tonight’s public hearing. Any comments received before tonight’s hearing will be provided to the Planning Commission at the hearing, and a summary of all public comments will be posted to the project webpage within a week following the hearing. The Planning Commission may have further discussion following tonight’s public hearing, with formal recommendation to the City Council scheduled for December.

Public Hearing:

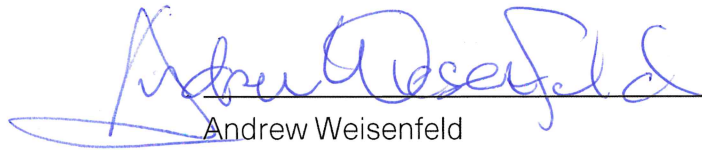
The Planning Commission is scheduled and duly noticed to hold a public hearing this evening to accept public comment regarding proposed Comprehensive Plan Periodic Update.



CITY OF EDGEWOOD
ECONOMIC DEVELOPMENT ADVISORY BOARD
RECOMMENDATION

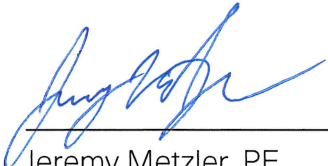
The Economic Development Advisory Board voted 4-0 to recommend that the Planning Commission include the attached Economic Development Element in the 2024 City of Edgewood Comprehensive Plan Update.

RECOMMENDED BY THE CITY OF EDGEWOOD ECONOMIC DEVELOPMENT ADVISORY
BOARD ON THE 7TH DAY OF OCTOBER 2024.



Andrew Weisenfeld
Economic Development Advisory Board Chair

Attest by:



Jeremy Metzler, PE
Community Development Director



CITY OF EDGEWOOD STAFF REPORT PLANNING COMMISSION AGENDA ITEM

Date: November 6, 2024

Title: SB 5290 Code Updates – Public Hearing

Attachments:

- Exhibit A - Draft EMC 18.20.190 Redlines
- Exhibit B - Draft EMC 18.40 Redlines
- Exhibit C - Draft EMC 18.95.020(B)(4) Redlines
- Exhibit D - Draft EMC 16.04.030 Redlines
- Exhibit E - Draft EMC 18.90.080 Redlines
- Exhibit F - Senate Bill 5290 Consistency Checklist

Submitted By: Jeremy Metzler, PE – Community Development Director
Josh Kubitz, AICP – Planning Manager

Background Information:

In the 2023 Regular Session, the 68th Legislature unanimously passed Second Substitute Senate Bill 5290 (SB 5290), which made various amendments to Revised Code of Washington (RCW) Chapter 36.70B, Local Project Review. This state law is intended to ensure predictability and consistency in the local permit review process. An emergency interim ordinance was passed by City Council on July 25, 2023 (Ordinance 23-0647), and extended on July 9, 2024 (Ordinance 24-0665), to address the following sections of SB 5290 that became effective on July 23, 2023:

- Section 1: Clarifying when a site plan may be required for internal improvements;
- Section 5: Updating the definition of project permit; and
- Section 6: Clarifying the procedure for determining whether an application is "complete" for the purposes of review.

The remaining sections of SB 5290 are summarized as follows:

- Sections 2 and 3: establishes new grant programs to support local agencies in consolidated permit review and conversions from paper to digital permitting, subject to legislative funding
- Section 4: establishes a digital permitting process work group, subject to legislative funding
- Section 7: modifies RCW 36.70B.080, effective January 1, 2025 (see Current Discussion, below)
- Section 8: encourages adoption of several "project review and code provisions to provide prompt, coordinated review and ensure accountability to applicants and the public", with additional measures being required if performance measures are not met by the next periodic update of the city's comprehensive plan

- Section 9: directs the Department of Commerce to *“develop and provide technical assistance and guidance... in setting fee structures under RCW 36.70B.160(1) to ensure that the fees are reasonable and sufficient to recover true costs.”*
- Section 10: clerical updates to RCW 36.70B.110
- Section 11: directs the Department of Commerce to *“develop a template for counties and cities subject to the requirements in RCW 36.70B.080, which will be utilized for reporting data.”*
- Section 12: directs the Department of Commerce to *“develop a plan to provide local governments with appropriately trained staff to provide temporary support or hard to find expertise for timely processing of residential housing permit applications.”*
- Section 13: sets the effective date of January 1, 2025 for Section 7

A copy of SB 5290 is provided here: [5290-S2.SL.pdf \(wa.gov\)](https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/5290-S2.SL.pdf?q=20240729121638)

<https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/5290-S2.SL.pdf?q=20240729121638>

Current Discussion:

As stated above, Section 7 of SB 5290 becomes effective on January 1, 2025, and it includes significant updates to permit processing timelines, mandatory reporting, and various incentives and penalties for failing to process permits in a timely manner (tied to Section 8).

Permit Process Revisions:

Exhibits A through E are suggested redlines to EMC Title 18 to satisfy the changes required by Section 7 of SB 5290, as well as the interim changes that were implemented under Ordinances 23-0647 and 24-0665, for discussion with the Planning Commission. Exhibit F is a crosswalk table with the relevant sections of RCW 36.70B and how they relate to the affected sections of EMC Title 18. The following is a list summarizing the affected sections of EMC:

- EMC 18.20.190 – Definitions of “Project permit”
- EMC Chapter 18.40 – Procedures for Land Use Permits and Decisions
- EMC 18.95.020(B)(4) – Design Standards, Applicability, Interior alterations

Accountability to Applicants:

Section 7(l) requires proportional permit fee refunds to the applicant when the project permit time period is not met except for when a city has implemented at least three of the options provided in RCW 36.70B.160(1), (a) through (j). Based on feedback from the Planning Commission, the City staff has looked at implementing at least three options from RCW 36.70B.160 to avoid revising the fee schedule to allow for additional permit refunds. The City currently maintains on-call permitting assistance (option d) and the proposed code amendments includes city staff meeting with applicant to resolve outstanding issues prior to third resubmittal (option j) and making preapplication meetings optional (option g). Staff review additional options but didn't find the options financially or logistically feasible at this time.

Efficiency Revisions:

In addition to SB 5290 required revisions to EMC 18.40, staff has provided additional redlines to remove unnecessary inefficiencies, and redundant and convoluted code language in-line with the intent of SB 5290. Examples of these updates include renaming and restructuring the “quasi-judicial map amendment” section into a simpler “site-specific rezone” process, consolidating the process procedures, and creating new sections for Administrative Appeals (EMC 18.40.210) and Judicial Appeals (EMC 18.40.220). The suggested revisions would eliminate approximately 10 pages of unnecessary municipal code.

Public Hearing:

The Planning Commission is scheduled and duly noticed to hold a public hearing this evening to accept public comment regarding proposed SB 5290 Code Updates.

Exhibit A

18.20.190 P definitions.

“Project permit” means any land use or environmental permit or license required from the city of Edgewood for a project action, including but not limited to ~~building permits,~~ site development permits, fill and grade permits, subdivisions, binding site plans, planned unit developments, conditional uses, site plan(s), shoreline substantial development permits, development plan review, site specific rezones ~~authorized by the comprehensive plan~~ which do not require a comprehensive plan amendment; but excluding adoption or amendment of ~~the a~~ comprehensive plan, subarea plan or and development regulations, ~~zoning of newly annexed land, area-wide rezones, and zoning map amendments~~ except as otherwise specifically included in this subsection.

Exhibit B

Chapter 18.40

PROCEDURES FOR LAND USE PERMITS AND DECISIONS

Sections:

- 18.40.010 Purpose.
- 18.40.020 Permit required.
- 18.40.030 Exclusions from permit requirements.
- 18.40.040 Coordination of development permit procedures.
- 18.40.050 Certain regulatory authority not affected.
- 18.40.060 Terminology and methods used.
- 18.40.070 Process types.
- 18.40.080 Process I – ~~Minor a~~Administrative approval.
- 18.40.090 Process II – ~~Major a~~Administrative action.
- 18.40.100 Process III – Hearing examiner action.
- 18.40.110 ~~Quasi-judicial map amendments – Purpose~~Process IV – Site-specific Rezones.
- 18.40.111 ~~Administration of quasi-judicial map amendments.~~
- 18.40.112 ~~Procedure for quasi-judicial map amendments.~~
- 18.40.113 ~~Requirements for a complete quasi-judicial map amendment application.~~
- 18.40.114 ~~Criteria for approval of quasi-judicial map amendment.~~
- 18.40.115 ~~Conditioning.~~
- 18.40.116 ~~Deadline for final decision.~~
- 18.40.117 ~~Expiration.~~
- 18.40.120 Process V – Legislative review.
- 18.40.130 Preapplication conference.
- 18.40.140 Project permit applications.
- 18.40.150 Determination of completeness ([RCW 36.70B.070](#)).
- 18.40.160 Incorrect applications.
- 18.40.170 Referral of applications.
- 18.40.180 Notice of application ([RCW 36.70B.060](#)).
- 18.40.190 Notice of public hearing.
- 18.40.200 ~~Notice of Decision.~~
- 18.40.210 ~~Administrative appeals.~~
- 18.40.220 ~~Judicial appeals.~~

18.40.010 Purpose.

The purpose of this chapter is to provide for and promote the health, safety and welfare 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 provisions of this chapter.

18.40.020 Permit required.

A permit, discretionary or zoning decision shall be issued by the community development director or designee according to the provisions of this title for all development activities and uses located within the city, except as excluded by EMC 18.40.030, Exclusions from permit requirements. The building code official shall not issue a building permit for the construction, reconstruction or alteration of a structure or a part of a structure for which a zoning decision [is required but](#) has not been issued. The community development director or designee shall not issue a project permit, discretionary or zoning decision for the improvement or use of land that has been previously divided or otherwise developed in violation of this title, regardless of whether the permit applicant created the violation, unless the violation can be rectified as part of the development.

18.40.030 Exclusions from permit requirements.

Except as indicated otherwise, an activity, development or use listed below is excluded from the requirement for a project permit, discretionary, or zoning decision. Exclusion from the requirements of a permit [under this title](#) does

not exempt the development or its use from applicable requirements of this title or other applicable federal, state and local regulations.

A. Landscaping of a single-family detached dwelling that does not involve a structure, grading, fill, excavation or otherwise require a permit.

B. Fences less than or equal to six feet in height and not obstructing the clear line of vision of vehicular traffic approaching the location from any street or driveway. Fences greater than six feet in height require a building permit and must meet applicable setback standards.

C. A change internal to a building or other structure that does not substantially affect the use of the structure and that does not require a building permit.

D. Structures less than 120 square feet and less than 10 feet in height are not subject to a development permit, but are required to meet all appropriate setbacks as listed in EMC 18.90.150, Setback standards, when placed on the owner's property where the owner resides. No structures may be placed on a lot so as to obstruct the clear line of vision of vehicular traffic approaching on any street or from a driveway.

E. Any emergency measures necessary for public safety or protection of property. The city shall be notified of any emergency work performed under this provision within seven (7) calendar days. Upon resolution of the emergency, the property owner must either restore the site to its original condition or comply with the requirements of this title, EMC Title 13, EMC Title 14, and EMC Title 15 Pierce County Code (PCC) 17A within 60 days. The city may extend the 60-day time limit when the property owner can show reasonable cause for the delay.

F. Agricultural uses.

G. The establishment, performance, construction, or installation of residential accessory uses that do not involve or otherwise require a city permit, license or approval.

H. The establishment, construction or termination of a public utility facility that directly serves development authorized for any area, including such facilities as a private or public street, sewer, water line, electrical power or gas distribution line, or telephone or television cable system, that do not otherwise require a city permit, license or approval.

I. Installation or construction of an accessory structure that does not require a building permit.

J. The stockpiling or broadcasting of less than 50 cubic yards of landscape material, pursuant to EMC 13.05.010(L), such as topsoil, peat, sawdust, mulch, bark, or chips, not to exceed SEPA exemption levels.

18.40.040 Coordination of development permit procedures.

A. The community development director or designee shall determine the proper procedure for all applications using EMC 18.40.070, Process types. If there is any question as to the appropriate application process for a given application, the community development director or designee shall resolve it in favor of the higher processing number procedure shall prevail. Process I is the lowest number procedure and Process V is the highest.

B. At the city's sole discretion, an application that involves two or more procedures shall be processed collectively at the city's sole discretion, under the highest numbered procedure required for any part of the application. Public hearings with other agencies shall be processed according to EMC 18.40.190, Notice of public hearing.

C. Abbreviated findings shall be restricted to Process I and II, where little or no discretion is needed to make a decision. The decision may serve as a permit if all requirements are met.

DC. Except for Process V procedures, all city actions on project permits shall be completed in the time periods established in EMC 18.40.200, including resolution of all local appeals shall be complete within 120 days of determination of a completed application. This 120-day period may be extended for a reasonable period of time at the request of the applicant pursuant to EMC 18.40.150, Determination of completeness.

18.40.050 Certain regulatory authority not affected.

An application for a land use approval may be denied or approved conditionally under the authority of the city to protect and enhance the public safety, health, and general welfare, and under the State Environmental Policy Act, even though the applicant has attained a vested right against enforcement of an ordinance which changes the regulations, codes, or procedures affecting the land use action.

18.40.060 Terminology and methods used.

~~The community development director or designee shall be responsible for the coordination of the project permit application and decision-making procedures and shall only issue a permit or grant an approval to an applicant whose application and proposed development is in compliance with the full provisions of this title. Before issuing any permits or approvals, the community development director or designee shall be provided with sufficient detail to establish that an application is in full compliance with the requirements of this title.~~

A. For purposes of this title, certain terms or words used in this title shall be interpreted as follows:

1. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
2. The word “shall” is mandatory; and the word “may” is permissive.
3. The word “used” or “occupied” includes the words “intended, designed or arranged to be used or occupied.”

B. In computing time for the purposes of this title, the following apply:

1. “Day” means calendar day.
2. The day that a notice or decision is issued shall not be included in the comment or appeal period, respectively.
3. The last day of the comment and appeal periods shall be included unless it is a Saturday, Sunday, 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 comment / appeal filing must be submitted / completed by the next business day.
- ~~4. The day that a decision is issued shall not be included in the appeal period.~~
- ~~5. The last day of the appeal period shall be included unless it is a Saturday, Sunday, 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.~~

C. Distances will be measured by following a straight line, without regard to intervening structures or improvements~~buildings~~, from the nearest point of the property or parcel upon which the proposed use is to be located, to the nearest point of the parcel, critical area boundary/delineation and related buffers, ~~or wetland-delineation line, ordinary high water line~~ or the zoning district boundary line from which the proposed use is to be separated.

18.40.070 Process types.

Permit applications for review ~~pursuant to this section~~ shall be classified as a Process I, Process II, Process III, or Process IV action, all of which are administrative in nature. Process V actions are legislative in nature. All land use permit applications and decisions are categorized by process type as set forth in this chapter. ~~The differences between the processes are generally associated with the different nature of the decisions and the decision-making body. Please refer to Table 1: Application Processing Type below as described in Table 1 below.~~

Table 1: Application Processing ~~Procedures~~ Type

	Process I <u>Minor</u> Administrative Approval	Process II <u>Major</u> Administrative Action	Process III Hearing Examiner Action	Process IV Quasi- Judicial <u>Rezoning</u> <u>Action</u>	Process V Legislative Action
Permits	Administrative interpretations; Boundary line adjustments; Building permit; Design standards review; Final binding site plan; <u>Subdivision Modification</u> ; <u>Short Subdivision Modification</u> ; Final short plat; Limited home business; Manufactured or mobile home permit; ADU approval; Site development permit; Sign permit; Temporary sign permit; Temporary use; Tree removal permit; Zoning decisions	Administrative uses; Administrative variance; Binding site plan per EMC 16.05.050(B); Home business; Master plan; Environmental review; Short plat; Short plat amendment	Binding site plan per EMC 16.05.050(A); Conditional uses; <u>Plat amendment</u> ; Preliminary plat; Public facilities permits; Reasonable use permit; variances; Residential cluster development	<u>Site-Specific</u> Rezone; <u>Comprehensive plan map and text amendments</u> ; **Final plat **No hearing or recommendation required from planning commission	Ordinance text or area-wide map change; Annexation; Adoption of new planning-related ordinances
Impacts	Minimal or no effect on others, so issuance of permit is not dependent on others	Application of the standards may require some knowledge of impacts and effect upon others	Potential significant effect on some persons or broad impact on a number of persons	Potential significant effect on some persons or broad impact on a number of persons	Potential significant effect on some persons or broad impact on a number of persons
Recommendations	NA	NA	Staff	Planning commission **except as noted above	Planning commission
Decision-Making Body	Designee	Designee	Hearing examiner	City council	City council
Appeal	Mayor	Hearing examiner	City council	State agencies, Pierce County superior courts	State agencies, Pierce County superior courts
Notice/Comment	<u>Participation of applicant only</u> <u>Not Required</u>	Nearby property owners invited to comment on an application	In addition to applicant, others affected invited to present initial information	In addition to applicant, others affected invited to present initial information	Anyone invited to present information

A. This section is intended to provide procedures for the processing of permits pursuant to the requirements of Chapter 36.70B RCW, including, but not limited to, preapplication conferences, SEPA consistency, determination of completeness, notice of application, public notice, public hearing and appeal processes for review of project permits. If the procedural requirement of this title were in direct conflict with the state statute, then the state statute would apply.

B. All ~~Process III, and Process IV permits, and any Process I and Process II~~ permits that are subject to environmental review under SEPA (Chapter 43.21C RCW and EMC Title 20) are subject to the provisions of EMC 18.40.090, ~~Process II – Administrative action~~. An environmental checklist shall be submitted in conjunction with the submittal of a project permit application subject to EMC 18.40.140, ~~Project permit applications~~. One environmental threshold determination shall be made for all related project permit applications. The city will not issue a threshold determination, other than a determination of significance (DS), prior to the submittal of a complete project permit application and the expiration of the public comment period in the notice of application pursuant to EMC 18.40.180, ~~Notice of application~~, but may utilize the public notice procedures as outlined in EMC 18.40.190, ~~Notice of public hearing~~, to consolidate public notice.

C. The following permits or approvals are specifically excluded from the procedures set forth in this chapter:

1. Landmark designations.
2. Street vacations.
3. Street use permits.
4. Building permits which are categorically exempt from environmental review under SEPA or that do not require street improvements, boundary line adjustments, or other construction permits, pursuant to RCW 36.70B.140.
5. Administrative approvals which are categorically exempt from environmental review under SEPA, pursuant to Chapter 43.21C RCW and EMC Title 20, SEPA, for which environmental review has been completed in connection with other project permits.

D. Consolidated Permit Review Process. The applicant may elect to consolidate two or more development related permits for one project action and submit the applications simultaneously. The review process for land use permits for the same site with different process types will follow the higher process decision type.

1. Project permit approval prior to building permit application.

i. An applicant who files an application for any project permit prior to the filing of a valid and complete application for a building permit shall be deemed to have specifically acknowledged that the acceptance and processing of such project permit application shall in no way establish or create a vested right to proceed with construction of any proposed project in accordance with the codes, ordinances, or regulations existing at the time of filing of such application, or at any time thereafter, prior to the filing of a valid and complete building permit application.

2. Project permit approval together with building permit application.

i. If project permit approval was not obtained prior to building permit application, the building permit approval is subject to obtaining any required project permit approval and shall not be issued until such project permit approval is obtained.

ii. An applicant who fails to obtain any required project permit approval prior to submitting a building permit application shall be deemed to have specifically acknowledged that the building permit application may expire prior to a decision on any such project permit application, and that the building permit application is made at the applicant's own risk.

(Ord. 16-469 § 2 (Exh. A); Ord. 15-448 § 2 (Exh. A); Ord. 07-288 § 2; Ord. 06-269 § 5; Ord. 03-203 § 1).

18.40.080 Process I – ~~Minor A~~ administrative approval.

~~A. Various provisions of this chapter indicate that certain developments, activities, or uses are permitted only if approved using Process I. Under Process I, the community development director or designee is authorized to make administrative decisions based on certain criteria as set forth in this title or chapter. Any Process I application not categorically exempt from the State Environmental Policy Act, WAC 197-11-800, shall be reviewed pursuant to the procedural requirements of Process I of this chapter. Any appeals of the designee decision under this process may be appealed to the mayor as provided for in this process.~~

B. Purpose of Review.

1. To review a proposal for compliance with the provisions of this chapter and all other applicable law.
2. To ensure that the health, safety, and welfare of the citizens of the city is preserved.
3. To provide an expedient and reasonable land use review process for administrative decisions and interpretations of this chapter.

C. Applications. The project permit is subject to EMC 18.40.150, Determination of completeness.

- ~~1. Any person, personally or through an agent, may make application for a Process I land use decision.~~
- ~~2. The applicant shall file a completed land use application. Accompanying the application shall be a written response to the decisional criteria as set forth in this chapter for a particular use or activity.~~
- ~~3. With the application, the applicant shall submit the fee as set forth in the city of Edgewood fee schedule. The application shall not be accepted unless it is accompanied by the required fee.~~
- ~~4. The community development director or designee may modify the submittal requirements as deemed appropriate.~~
- ~~5. An application for an administrative decision shall be routed to the community development department. The community development director or designee may route for comment an application to other staff members or departments.~~

D. In making a decision on the application, the community development director or designee may approve or approve with conditions the application only if it is consistent with all applicable development regulations and the provisions of this chapter.

E. Notice of Decision. The project's notice of decision shall comply with time periods and standards provided in EMC 18.40.200, Notice of Decision

~~E~~. Appeals.

~~1. The applicant and any person who received notice of the administrative decision under this section may appeal the administrative decision to the mayor in an open record appeal as set forth in EMC 18.40.210, Administrative appeals.~~

- ~~2. The appeal, in the form of a letter of appeal, must be delivered to the community development department within 14 calendar days after issuance of the administrative decision. The letter of appeal must contain:

 - ~~a. A statement identifying the administrative decision being appealed, along with a copy of the administrative decision;~~
 - ~~b. A statement of the alleged errors in the administrative decision, including identification of specific factual findings and conclusions of the community development director or designee disputed by the person filing the appeal; and~~
 - ~~c. The appellant's name, address, telephone number and fax number, and any other information to facilitate communications with the appellant.~~~~

~~3. The person filing the appeal shall include, with the letter of appeal, the applicable appeal fee, as set forth in the city of Edgewood fee schedule. The appeal will not be accepted unless it is accompanied by the required fee.~~

~~4. Appeals of an administrative decision will be reviewed and decided upon using the process for appeals outlined in, EMC 18.40.090, Process II – Administrative action.~~

18.40.090 Process II – ~~Major A~~Administrative action.

~~A. Various provisions of this chapter indicate that certain developments, activities or uses are permitted only if approved using Process II. Under Process II, the community development director or designee will make the initial land use decision based on written comments and information. Appeal of the decisions will be decided by the hearing examiner after an open record appeal.~~

~~B. Purpose of Review. In addition to the purpose stated under EMC 18.40.080(B) above, Process II has the following purposes:~~

~~1. Review the proposal for compliance with the provisions of this chapter and all other applicable law.~~

~~2. Help~~ ensure that the proposal is coordinated, as is reasonable and appropriate, with other known or anticipated development on private properties in the area and with known or anticipated right-of-way and other public improvement projects within the area.

C. Applications. The project permit is subject to EMC 18.40.150, Determination of completeness.

~~1. Any person may, personally or through an agent, apply for a decision regarding property he or she owns.~~

~~2. The applicant shall file a completed application in the community development department on the form provided by the department. The applicant shall also provide all information or material that is specified in the provision of this chapter that describes the decision applied for, all information specified in EMC 18.40.150, Determination of completeness, and any additional information or material that the community development director or designee determines is reasonably necessary for a decision on the matter.~~

~~3. With the application, the applicant shall submit the fee as set forth in the city of Edgewood fee schedule. The application will not be accepted unless it is accompanied by the required fee.~~

~~4. The city will apply EMC 18.40.150, Determination of completeness, to determine if an application is complete.~~

~~5. A determination of completeness shall not preclude the city from requesting additional information or studies, either at the time of the letter of completeness or subsequently, if new information is required or substantial changes in the proposed action occur.~~

D. The State Environmental Policy Act (SEPA) applies to some of the decisions that will be made using this process. The community development director or designee shall evaluate each application ~~and, where applicable, comply with the State Environmental Policy Act and with state regulation and city ordinances issued under the authority of the State Environmental Policy Act pursuant to Chapter 20.05 Environmental Review - The State Environmental Policy Act (SEPA).~~

E. Official File.

1. The community development director or designee shall compile an official file on the application containing the following:

- a. All application material submitted by the applicant.
- b. All written comments received on the matter.
- c. The written decision of the community development director or designee.

~~d2.~~ If the decision of the community development director or designee is appealed, the following will be included in the file:

- ~~ia.~~ The letter of appeal.
- ~~iib.~~ All written comments received regarding the appeal.
- ~~iiic.~~ The staff report regarding the appeal.
- ~~ivd.~~ The electronic audio recording of the hearing on the appeal.
- ~~vce.~~ The decision of the hearing examiner on the appeal.
- ~~vif.~~ Any other information relevant to the matter.

~~23. The official file is a public record. It is available for inspection and copying in the community development department during regular business hours.~~

F. ~~Application Noticing. The project permit is subject to EMC 18.40.180, Notice of application. The community development director or designee shall, within 14 days of issuing a letter of completeness on the proposal, prepare a notice of application containing all information specified in EMC 18.40.180, Notice of application.~~

G. ~~The burden of proof for demonstrating compliance with this title and the applicable technical codes and standards is on the applicant and permittee. The applicant has the responsibility of convincing the community development director or designee that, under the provisions of this process, the applicant is entitled to the requested decision.~~

H. The community development director or designee shall consider all written comments and information regarding the requested decision that are received by the community development department before the deadline contained within the notice of application.

I. ~~Community Development Director or Designee Decision.~~

1. Coordination with Decisions Under the State Environmental Policy Act. If a SEPA threshold determination is required to be issued, the threshold determination must follow the end of the public comment period, but precede the community development director's or designee's decision ~~on the land use and design components of the Process II project approval~~. If the SEPA threshold determination is appealed, the community development director's or designee's ~~land use and design components-Process II~~ decision shall be issued sufficiently in advance of the open record hearing on the threshold determination appeal to allow any appeal of the land use and/or design review decision to be consolidated and heard with the appeal of the threshold determination. ~~If the community development director or designee is unable to issue the final decision on the land use of a Process II project application as provided in this section, the city shall provide written notice pursuant to EMC 18.40.150(A)(4).~~

2. In making a decision on the application, the community development director or designee shall use the criteria listed in the provisions of this ~~title~~ chapter. In addition, the community development director or designee may approve the application only if it is consistent with:

~~a. The comprehensive plan;~~

~~b. A all applicable development regulations and the provisions of this chapter;~~

~~c. The public health, safety, and welfare; and~~

~~d. The streets and utilities in the area of the subject property are adequate to serve the anticipated demand from the proposal.~~

3. The community development director or designee shall include in the written decision any conditions and restrictions that are reasonably necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions that are included become part of the decision.

~~a. The community development director or designee shall include t~~ The following shall be included in the written decision:

~~ia. A statement granting, modifying and granting, or denying the application.~~

~~iib. Any conditions and restrictions that are imposed.~~

~~iiic. A statement of facts presented to the community development director or designee that support the decision, including any conditions and restrictions that are imposed.~~

~~ivd. A statement of the director's conclusions based on those facts.~~

~~ve. A statement of the criteria used in making the decision.~~

~~vif. The date of the decision.~~

~~viig. A summary of the rights, as established in this process, of the applicant and others to appeal the decision.~~

~~viiih. A statement of any threshold determination made under the State Environmental Policy Act, WAC 197-11-330, Threshold determination process.~~

4. Notice of Decision. The project's notice of decision shall comply with time periods and standards provided in EMC 18.40.200, Notice of Decision J4. Within five working days after the written decision of the community development director or designee is issued, a copy of the decision shall be mailed as follows:

1a. The applicant.

2b. Each person who submitted written comments or information to the community development director or designee.

3c. Any person who has specifically requested it.

K54. Decisions under this section shall become final upon the expiration of the appeal period, unless appealed. Upon the decision becoming final, the applicant may engage in activity based on the decision, provided applicable permits have been approved, subject to the following:

1J. An applicant or other party of record who may be aggrieved by the decision may file an appeal the decision within 14 days of the issuance of the decision by the community development director's decision in accordance with EMC 18.40.210, or designee consistent with the provisions of subsection (L) of this section; Administrative Appeals. Appeals of Process II permits shall be heard by the hearing examiner in an open record appeal. If a written notice of appeal is received within the appeal period, the decision shall be referred to the hearing examiner and shall not become final until the appeal process is complete and the city issues a final decision. Upon issuance of the final decision, the applicant may engage in activity based on the decision, provided applicable permits have been approved.

2. If no appeal is submitted within the 14 calendar day appeal period, the preliminary approval shall become final on the first calendar day following the expiration of the appeal period. Upon the decision becoming final, the applicant may engage in activity based on the decision, provided applicable permits have been approved.

L. Appeals.

1. The decision of the community development director or designee related to the processes pursuant to Table 1 may be appealed by any person who is to receive a copy of that decision under subsection (J) of this section.

2. The appeal, in the form of a letter of appeal, must be delivered to the department of community development within 14 calendar days after issuance of the decision of the community development director or designee. The letter of appeal must contain:

a. A statement identifying the decision being appealed, along with a copy of the decision;

b. A statement of the alleged errors in the decision, including identification of specific factual findings and conclusions of the community development director or designee disputed by the person filing the appeal; and

c. The appellant's name, address, telephone number and fax number, and any other information to facilitate communications with the appellant.

3. The person filing the appeal shall include, with the letter of appeal, the applicable appeal fee, as set forth in the city of Edgewood fee schedule. The appeal will not be accepted unless it is accompanied by the required fee.

~~4. Appeals from the decision of the community development director or designee will be heard by the hearing examiner.~~

~~M. Notice of public hearing is required for all types of applications for which a public hearing is held. Notice of public hearing shall be reasonably calculated to give actual notice and shall contain the information as specified in EMC 18.40.190, Notice of public hearing.~~

~~N. Only those persons entitled to appeal the decision under subsection (J) of this section may participate in the appeal. These persons may participate in either or both of the following ways:~~

~~1. By submitting written comments or information to the community development department prior to the hearing or to the hearing examiner during the hearing.~~

~~2. By appearing in person, or through a representative, at the hearing and submitting oral comments directly to the hearing examiner. The hearing examiner may reasonably limit the extent of the oral comments to facilitate the orderly and timely conduct of the hearing.~~

~~O. The scope of the appeal is limited to the errors raised or the specific factual findings and conclusions disputed in the letter of appeal. The hearing examiner may only consider evidence, testimony or comments relating to errors raised or the disputed findings and conclusions. The hearing examiner also may not consider any request for modification or waiver of applicable requirements of this chapter or any other law.~~

~~P. Staff Report on Appeal:~~

~~1. The community development director or designee shall prepare a staff report on the appeal containing the following:~~

~~a. The written decision of the community development director or designee.~~

~~b. All written comments submitted to the community development director or designee.~~

~~c. The letter of appeal.~~

~~d. All written comments on the appeal received by the community development department from persons entitled to participate in the appeal.~~

~~e. An analysis of the alleged errors in the decision and any specific factual findings and conclusions disputed in the letter of appeal.~~

~~2. At least seven calendar days before the hearing, the community development department shall distribute copies of the staff report on the appeal as follows:~~

~~a. The hearing examiner.~~

~~b. The applicant.~~

~~c. The person who filed the appeal.~~

~~d. Each person who received a copy of the community development director or designee's decision.~~

~~Q. Open Record Appeal.~~

~~1. The hearing examiner shall hold an open record hearing on the appeal.~~

~~2. The hearings of the hearing examiner are open to the public.~~

~~3. The hearing examiner shall make an audio recording of each hearing.~~

4. The person filing the appeal has the responsibility of convincing the hearing examiner by a preponderance of the evidence that the community development director or designee's decision contains an error of law or that its findings of fact or conclusions are incorrect pursuant to EMC 18.30.090, Burden of proof.

5. The hearing examiner may continue the hearing if, for any reason, the examiner is unable to hear all of the public comments on the appeal or if the hearing examiner determines that the examiner needs more information within the scope of the appeal. If, during the hearing, the hearing examiner announces the time and place of the next hearing on the matter and a notice thereof is posted on the door of the hearing room, no further notice of that hearing need be given.

R. Decision on Appeal.

1. The hearing examiner shall consider all information and comments within the scope of the appeal submitted by persons entitled to participate in the appeal. The hearing examiner shall either affirm or change the findings and conclusions of the community development director or designee that were appealed. Based on the hearing examiner's findings and conclusions, the examiner shall either affirm, reverse or modify the decision being appealed.

2. Within 10 working days after the public hearing, the hearing examiner shall issue a written decision on the appeal. Within five working days after it is issued, the hearing examiner shall distribute the decision as follows:

- a. The applicant.
- b. The person who filed the appeal.
- c. Each person who participated in the appeal.
- d. Each person who specifically requested it.

3. The decision by the hearing examiner is the final decision of the city.

S. The hearing examiner's decision affirming, modifying or reversing the community development director or designee's decision denying an application under this process is the final decision of the city. The hearing examiner's decision may be reviewed pursuant to RCW 36.70C.040 in the Pierce County superior court. The land use petition must be filed within 21 calendar days after issuance of the final land use decision of the city.

K. Permit or approval expiration.

1. The applicant under this process must begin construction or submit ~~to the city~~ a complete building permit application for the development activity, use of land or other actions ~~approved under this process~~ within one year after the final decision ~~on the matter is issued~~, or the decision becomes void.

2. The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this process and complete the applicable conditions listed in the decision within five years after the final decision of the city on the matter, or the decision becomes void. If litigation is initiated pursuant to ~~EMC 18.40.210 this subsection (S)~~, the time limits of this section are automatically extended by the length of time between the commencement and final termination of that litigation.

3. If the development activity, use of land, or other actions approved under this chapter includes phased construction, the time limits of this section may be extended in the decision on the application, to allow for completion of subsequent phases.

TL. Prior to the lapse of approval under subsection (~~SK~~) of this section, the applicants may submit a written application in the form of a letter with supporting documentation to the community development department requesting a one-time extension of those time limits (time extension) of up to one year.

1. The request must demonstrate that the applicant is making substantial progress on the development activity, use of land or other actions approved under this chapter and that circumstances beyond the applicant's control

prevent compliance with the time limits of subsection K of this section. ~~EMC 18.40.150(A)(1), Time-Limitations.~~

2. The applicant shall include, with the letter of request, the fee as set forth in the city of Edgewood fee schedule. The application will not be accepted unless it is accompanied by the required fee.

3. An application for a time extension will be reviewed and decided upon by the community development director or designee. The community development director's decision on the one-time extension request is final and not appealable.

~~U. Any person who is aggrieved by the granting or denying of a request for a time extension under this section may appeal that decision to the city council. The appellant must file a letter of appeal indicating how the decision on the time extension affects the appellant's property and presenting any relevant material or information supporting the appellant's contention. Pursuant to EMC 18.40.150(A), any time limit upon the city's processing and decision upon applications under this chapter may, except as otherwise specifically stated in this chapter, be modified by a written agreement between the applicant and the community development director or designee.~~

~~VM.~~ The city may require a bond under EMC 18.30.120, Security mechanisms, to ensure compliance with any aspect of a permit or approval.

~~W. Complete Compliance Required:~~

~~1. Except as specified in subsection (W)(2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this chapter in order to do everything authorized by that approval.~~

~~2. If a specific use or site configuration for the subject property was approved under this process or any administrative process under a previous zoning regulation, the applicant is not required to apply for and obtain approval through this process for a subsequent change in use or site configuration unless:~~

~~a. There is a change in use and this chapter establishes different or more rigorous standards for the new use than for the existing use; or~~

~~b. The community development director or designee determines that there will be substantial changes in the impacts on the neighborhood or the city as a result of the change. (Ord. 23-652 §§ 57, 58, 59 (Exh. A); Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).~~

18.40.100 Process III – Hearing examiner action.

~~A. Various provisions of this chapter indicate that certain developments, activities or uses are permitted only if approved using Process III. Under Process III the hearing examiner will make the initial decision following a public hearing. City council will decide appeals from the hearing examiner decision on the land use element.~~

~~B. Proposals Requiring Approval Through Process III. If the development, use or activity that requires approval through Process I or Process II is part of a proposal that also requires approval through Process III.~~

~~CB. Purpose of Review. In addition to the purpose stated under EMC 18.40.090(B) above, Process III has the following purposes:~~

~~1. Review the proposal for compliance with the provisions of this chapter and all other applicable law.~~

~~2. Ensure that the proposal is coordinated, as is reasonable and appropriate, with other known or anticipated development on private properties in the area and with known or anticipated right-of-way and other public improvement projects within the area.~~

~~3. Encourages proposals that embody good design standards principles that will result in high quality development on the subject property.~~

~~DC.~~ The project permit is subject to EMC 18.40.150, Determination of completeness. The applicant shall file the following information with the community development department when filing an application:

- ~~1. A completed application, with supporting affidavits, on forms provided by the community development department.~~
- ~~2. Any information or material that is specified in the provision of this chapter that describes the requested decision in the application.~~
- ~~3. Any additional information or material that the community development director or designee determines is reasonably necessary for a decision in the matter.~~
- ~~4. With the application, the applicant shall submit the fee as set forth in the city of Edgewood fee schedule. The application will not be accepted unless it is accompanied by the required fee.~~
- ~~5. The city will apply EMC 18.40.150, Determination of completeness, to determine if an application is complete.~~
- ~~6. A determination of completeness shall not preclude the city from requesting additional information or studies, either at the time of the letter of completeness or subsequently, if new information is required or substantial changes in the proposed action occur.~~

~~ED.~~ Official File.

~~1.~~ The community development director or designee shall compile an official file on the application containing the items listed under EMC 18.40.090(E)(1) and the following:

~~1. All application materials submitted by the applicant.~~

~~2a.~~ The staff report.

~~3. All written comments received on the matter.~~

~~4b.~~ The electronic recording of the public hearing on the matter.

~~5c.~~ The decision of the hearing examiner, in lieu of the written decision of the community development director or designee.

~~F2.~~ If the decision of the hearing examiner is appealed, the following will be included in the file shall include the items listed under EMC 18.40.090(E)(2) and the following:

~~1. The letter of appeal.~~

~~2. All written comments submitted regarding the appeal.~~

~~3. The staff report on the appeal.~~

~~4a.~~ The decision of the city council on the appeal, in lieu of the decision of the hearing examiner on the appeal.

~~5. Any other information relevant to the matter.~~

~~G.~~ The official file is a public record. It is available for inspection and copying in the community development department during regular business hours.

~~HE.~~ Application Noticing. The project permit is subject to EMC 18.40.180, Notice of application. The community development director or designee shall, within 14 days of issuing a letter of completeness on the proposal, prepare a notice of application containing all information specified in EMC 18.40.180, Notice of application.

~~IF.~~ Notice of public hearing. In addition to the information specified ~~Sec~~ EMC 18.40.190, Notice of public hearing, ~~the notice of public hearing shall include the following:~~

~~1. Date, time, and place of the public hearing.~~

~~21. A statement of the right of any person to submit written comments to the hearing examiner and to appear at the public hearing of the hearing examiner to give comments orally and the right to request a copy of the decision once made.~~

~~32. A statement that only persons who submit written or oral comments to the hearing examiner may appeal the hearing examiner's decision.~~

~~KG.~~ The State Environmental Policy Act (SEPA) applies to some of the decisions that will be made using this chapter.

1. The community development director or designee shall evaluate each application and, where applicable, comply with SEPA and with state regulations and city ordinances issued under the authority of the SEPA.

2. Where a threshold determination under the SEPA is required, the responsible official shall issue a determination at least 29 days prior to the hearing before the hearing examiner to allow any appeal of the threshold determination to be consolidated with the hearing on the application for Process III approval.

~~KH.~~ The community development director or designee shall prepare a staff report concerning the application being processed pursuant to this section.

1. The staff report shall contain the following information:

- a. All pertinent application materials.
- b. All comments regarding the matter received by the community development department prior to distribution of the staff report.
- c. An analysis of the application under the relevant provisions of this chapter and the comprehensive plan.
- d. A statement of the facts found by the community development director or designee and the conclusions drawn from those facts.
- e. A recommendation on the matter.

2. At least seven calendar days before the hearing, the community development director or designee shall distribute the staff report ~~to the hearing examiner and the applicant as follows:~~

- ~~a. The hearing examiner.~~
- ~~b. The applicant.~~
- ~~c. Any person who has specifically requested it.~~

~~LJ.~~ Public Hearing.

1. The hearing examiner shall hold a public hearing on each application.

2. The hearings of the hearing examiner are open to the public.

~~M3.~~ The hearing examiner shall make a complete electronic audio recording of each public hearing.

~~N.~~ The applicant has the responsibility of convincing the hearing examiner that, under the provision of this process, the applicant is entitled to the requested decision.

~~O4.~~ Any person may participate in the public hearing in either or both of the following ways:

~~1a.~~ By submitting written comments to the hearing examiner, either by delivering these comments to the community development department prior to the hearing or by giving comments directly to the hearing examiner at the hearing; or

~~2b. By giving comments directly to the hearing examiner at the hearing.~~ By appearing in person, or through a representative, at the hearing and making oral comments directly to the hearing examiner. The hearing examiner may reasonably limit the extent of oral comments to facilitate the orderly and timely conduct of the hearing.

~~P5.~~ The hearing examiner may continue the hearing if, for any reason, he or she is unable to hear all of the public comments on the matter or if the hearing examiner determines that more information on the matter is needed. If, during the hearing, the hearing examiner announces the time and place of the next hearing on the matter and a notice thereof is posted on the door of the hearing room, no further notice of that hearing need be given.

QJ. Hearing examiner decision.

1. The hearing examiner decision shall comply with the standards and procedures are provided in EMC 2.40.110.

~~After considering all of the information and comments submitted on the matter, the hearing examiner shall issue a written decision. Unless the applicant agrees to a longer period, the hearing examiner must issue the decision within 10 working days after the close of the public hearing. The hearing examiner shall use the applicable criteria listed in the provisions of this chapter for the permit or approval requested. In addition, the hearing examiner may approve the application only if it is consistent with:~~

- ~~1. The comprehensive plan; and~~
- ~~2. A all applicable provisions of this chapter and all other applicable laws; and~~
- ~~3. The public health, safety and welfare; and~~
- ~~4. The streets and utilities in the area of the subject property are adequate to serve the anticipated demand from the proposal; and~~
- ~~5. The proposed access to the subject property is at the optimal location and configuration for access.~~

~~R2. The hearing examiner shall include in the written decision any conditions and restrictions that the examiner determines are reasonably necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions that are imposed become part of the decision. The hearing examiner shall include the following in the examiner's written decision:~~

- ~~1a. A statement granting, modifying and granting or denying the application.~~
- ~~2b. Any conditions and restrictions that are imposed.~~
- ~~3e. A statement of facts presented to him or her that support the decision, including any conditions and restrictions that are imposed.~~
- ~~4d. A statement of the hearing examiner's conclusions based on those facts.~~
- ~~5e. A statement of the criteria used by the hearing examiner in making the decision.~~
- ~~6f. The date of issuance of the decision and a summary of the rights, as established in this chapter, of the applicant and others to appeal the decision of the hearing examiner.~~
- ~~7g. A statement of any threshold determination made under the State Environmental Policy, Chapter 43.21C-RCW.~~

~~8. A statement that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.~~

~~9. Within five working days after the hearing examiner's written decision is issued, the community development director or designee shall mail a copy of the decision to:~~

~~a. The applicant.~~

~~b. Each person who submitted written or oral testimony to the hearing examiner.~~

~~c. Any person who has specifically requested it.~~ 24. The hearing examiner may require a bond under EMC 18.30.120, Security mechanisms, to ensure compliance with any aspect of a permit or approval.

3. Notice of hearing examiner decision. The project's notice of decision shall comply with time periods and standards provided in EMC 18.40.200, Notice of Decision.

45. Decisions under this section shall become final upon the expiration of the appeal period, unless appealed. Upon the decision becoming final, the applicant may engage in activity based on the decision, provided applicable permits have been approved.

~~SK. Appeals. Decisions under this section shall become final subject to the following:~~

~~1. An applicant or other party of record who may be aggrieved by the decision may file an appeal the decision within 14 days of the issuance of the hearing examiner's decision in accordance with EMC 18.40.210 by the director of community development consistent with the provisions of EMC 18.40.090(L), Administrative Appeals. Appeals from the decision of the hearing examiner will shall be heard by the city council as a closed record appeal.~~

~~L. Permit or approval expiration. See EMC 18.40.090(K).~~

~~M. Time extension. For all Process III applications and permits except subdivisions, see EMC 18.40.090(L).~~

~~If a written notice of appeal is received within the appeal period, the decision shall be referred to the hearing examiner and shall not become final until the appeal process is complete and the city issues a final decision. Upon issuance of the final decision, the applicant may engage in activity based on the decision, provided applicable permits have been approved.~~

~~2. If no appeal is submitted within the 14 calendar day appeal period, the preliminary approval shall become final on the first calendar day following the expiration of the appeal period. Upon the decision becoming final, the applicant may engage in activity based on the decision, provided applicable permits have been approved.~~

~~T. Appeals:~~

~~1. The decisions of the hearing examiner may be appealed by any person who is to receive a copy of that decision under EMC 18.40.090(I)(3)(a).~~

~~2. The appeal, in the form of a letter of appeal, must be delivered to the community development department within 14 calendar days after the issuance of the hearing examiner's decision. The letter of appeal must contain:~~

~~a. A statement identifying the decision being appealed, along with a copy of the decision;~~

~~b. A statement of the alleged errors in the hearing examiner's decision, including specific factual findings and conclusions of the hearing examiner disputed by the person filing the appeal; and~~

~~c. The appellant's name, address, telephone number and fax number, and any other information to facilitate communications with the appellant.~~

~~3. The person filing the appeal shall include, with the letter of appeal, the applicable appeal fee, as set forth in the city of Edgewood fee schedule. The appeal will not be accepted unless it is accompanied by the required fee and appropriate costs.~~

~~4. Appeals from the decision of the hearing examiner will be heard by the city council as a closed record appeal.~~

~~U. Notice of public meeting is required for all types of applications for which a public meeting is held. Notice of public meeting shall be reasonably calculated to give actual notice and shall contain the information as specified in EMC 18.40.190, Notice of public hearing.~~

~~V. Only those persons entitled to appeal the decision may participate in either or both of the following ways:~~

~~1. By submitting written comments to the community development department prior to the hearing or to the city council at the hearing.~~

~~2. By appearing in person, or through a representative, at the hearing and making oral comments directly to the city council. The council may reasonably limit the extent of the oral comments to facilitate the orderly and timely conduct of the hearing.~~

~~W. Staff Report on the Appeal.~~

~~1. The community development director or designee shall prepare documents on the appeal containing the following:~~

~~a. The staff report prepared for the public hearing before the hearing examiner.~~

~~b. The written decision of the hearing examiner.~~

~~c. All written comments submitted to the hearing examiner.~~

~~d. A summary of the comments and information presented to the hearing examiner, a statement of the availability of the electronic sound recording of the hearing, or a written transcript of the hearing examiner's proceedings.~~

~~e. The letter of appeal.~~

~~f. All written comments received by the community development department from persons entitled to participate in the appeal and within the scope of the appeal.~~

~~g. An analysis of the alleged errors and the specific factual findings and conclusions disputed in the letter of appeal.~~

~~2. The community development director or designee shall distribute copies of the documents as follows:~~

~~a. Prior to the hearing, a copy will be sent to each member of the city council.~~

~~b. At least seven calendar days before the hearing, a copy will be sent to:~~

~~i. The applicant;~~

~~ii. The person who filed the appeal; and~~

~~iii. Each person who received a copy of the hearing examiner's decision.~~

~~X. Closed Record Appeal.~~

~~1. The city council shall hold a closed record appeal hearing, as defined in RCW 36.70B.020(1).~~

~~2. The hearings of the city council are open to the public.~~

~~3. The scope of the appeal is limited to the specific errors raised or factual findings disputed in the letter of appeal. The city council shall consider only the following:~~

- ~~a. The information received from the community development director or designee pursuant to subsection (T) of this section.~~
- ~~b. The record before the hearing examiner, including exhibits and evidence admitted by the hearing examiner;~~
- ~~c. Appeal arguments by the appellant and the property owner, provided that appeal argument shall address only the issues raised by the letter of appeal and evidence, if any, allowed under subsection (X)(3)(d) of this section; or~~
- ~~d. New evidence that was not presented to or considered by the hearing examiner, but only if the city attorney determines that evidence relates to the validity of the hearing examiner's decision at the time it was made and the party offering the new evidence did not know and was under no duty to discover or could not reasonably have discovered the evidence until after the hearing examiner's decision.~~

~~Y. The city council shall make a complete electronic audio recording of each closed record appeal.~~

~~Z. The person filing the appeal has the responsibility of convincing the city council by a preponderance of the evidence that the hearing examiner's decision contains an error of law or that its findings of fact or conclusions are incorrect.~~

~~AA. After considering the matter as provided in subsection (X)(3) of this section, the city council shall, by motion approved by a majority vote of members present, take one of the following actions:~~

- ~~1. If city council determines that the disputed findings of fact and conclusions are the correct findings of fact and conclusions, the council shall affirm the decision.~~
- ~~2. If city council determines that the disputed findings of fact and conclusions are not correct and that correct findings of fact and conclusions do not support the decision of the hearing examiner, the council shall modify or reverse the decision.~~

~~3. Notice of Decision.~~

- ~~a. Following the final decision of the city council, the community development director or designee shall prepare a notice of the city's final decision on the application. To the extent the decision does not do so, the notice shall include a statement of any threshold determination made under the State Environmental Policy Act, WAC 197-11-330.~~

~~4. The decision of city council is the final decision of the city.~~

~~BB. The action of the city in granting or denying an application under this process may be reviewed pursuant to RCW 36.70C.040 in the Pierce County superior court. The land use petition must be filed within 21 calendar days after the final land use decision of the city.~~

~~CC. The applicant must begin construction or submit to the city a complete building permit application for the development activity, use of land or other actions approved under this process within one year after the final decision on the matter, or the decision becomes void. The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this section and complete the applicable conditions listed in the decision within five years after the final decision of the city on the matter, or the decision becomes void. If litigation is initiated pursuant to subsection (X) of this section, the time limit of this section is automatically extended by the length of time between the commencement and final termination of that litigation. If the development activity, use of land, or other actions approved under this section includes phased construction, the time limits of this section may be extended in the decision on the application.~~

~~DD. Time Extension.~~

1. Prior to the lapse of approval under subsection (CC) of this section, the applicants may submit a written application in the form of a letter with supporting documentation to the community development department requesting a one-time extension of those time limits of up to one year.
2. The request must demonstrate that the applicant is making substantial progress on the development activity, use of land or other actions approved under this process and that circumstances beyond the applicant's control prevent compliance with the time limits of subsection (CC) of this section.
3. The applicant shall include, with the letter of request, the fee as set forth in the city of Edgewood fee schedule. The application will not be accepted unless it is accompanied by the required fee.
4. An application for a time extension will be reviewed and decided upon by the community development director or designee.
5. Any person who is aggrieved by the granting or denying of a request for a time extension under this section may appeal that decision. The appellant must file a letter of appeal indicating how the decision on the time extension affects the appellant's property and presenting any relevant material or information supporting the appellant's contention. The appeal will be heard and decided upon using Process III. Any time limit, pursuant to Chapter 36.70B RCW, upon the city's processing and decision upon applications under this chapter may, except as otherwise specifically stated in this chapter, be modified by a written agreement between the applicant and the community development director or designee.

EE. The hearing examiner and city council may require a bond under EMC 18.30.120, Security mechanisms, to ensure compliance with any aspect of a permit or approval.

FF. Complete Compliance Required.

1. Except as specified in subsection (FF)(2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this process in order to do everything authorized by that approval.
2. If a specific use or site configuration for the subject property was approved under this process or any quasi-judicial process under a previous zoning code, the applicant is not required to apply for and obtain approval through this chapter for a subsequent change in use or site configuration unless:
 - a. There is a change in use and this chapter establishes different or more rigorous standards for the new use than for the existing use; or
 - b. The community development director or designee determines that there will be substantial changes in the impacts on the neighborhood or the city as a result of the change. (Ord. 23-652 §§ 60, 61, 62 (Exh. A); Ord. 15-448 § 2 (Exh. A); Ord. 03-203 § 1).

18.40.110 Quasi-judicial map amendments — Purpose**Process IV – Site-specific Rezones.**

A. Purpose. The purpose of this section through EMC 18.40.117 is to establish procedures for site specific applications to rezone property from one zoning classification to another amendment of the city's official zoning map. The official zoning map is the map of the city which depicts the zoning designations on property, and implements or gives effect to the comprehensive plan. Quasi-judicial amendments are those amendments of the official zoning map that involve the application of existing policy to a specific development application, and do not involve the adoption of new policy (which occurs through legislative decisions). (Ord. 17-500 § 2).

18.40.111 Administration of quasi-judicial map amendments.

A. Quasi-Judicial Map Amendments**B. Administration and procedures.** **Generally.** The director is authorized and directed to administer the provisions of this chapter relating to quasi-judicial map amendmentssite-specific rezones. The authority to hold a public hearing and provide a final recommendation is granted to the hearing examiner and the city council has the authority to make the final decision after a closed record hearing. If approved, the city council will adopt an ordinance amending the city's official zoning map.

~~B. Development Agreement. The city shall not process any quasi-judicial map amendments with development agreements under the interim zoning ordinance. (Ord. 17-500 § 3).~~

~~**18.40.112—Procedure for quasi-judicial map amendments.**~~

~~The following steps shall be followed in the processing of quasi-judicial amendments:~~

~~A. Determination of complete application;~~

~~B. Notice of application;~~

~~C. SEPA;~~

~~D. Determination of consistency;~~

~~E. Notice of public hearing;~~

~~F. Preparation of staff report;~~

~~G. Public hearing;~~

~~H. Issuance of recommendation to city council;~~

~~I. City council closed record hearing; and~~

~~J. If quasi-judicial map amendment is adopted, an ordinance is adopted to change the official land zoning map. (Ord. 17-500 § 4).~~

~~C. Application. In addition to the information required in EMC 18.40.140, Project permit applications,~~

~~**18.40.113—Requirements for a complete quasi-judicial map amendment application.**~~

~~The following materials shall be submitted to the city for a complete quasi-judicial amendment (site-specific rezone application):~~

~~A. Application Form. Seven copies of the completed application form;~~

~~B. Date, name, address, telephone number and email of the applicant;~~

~~C. Name, address, telephone number and email of the owner of the property identified in the application;~~

~~D. Legal description of the subject property;~~

~~1E. Identification of all sections of the comprehensive plan policies and map addressing the property subject to the application, including identification of the comprehensive plan map designation;~~

~~2F. Description of any proposed development of the property under the proposed zoning designation;~~

~~G. Any plans, information and/or studies that accurately depict existing and proposed use(s) and improvements;~~

~~H. An explanation of the rationale for the proposed amendment;~~

~~3I. An explanation of how the proposed amendment and associated development proposal(s), if any, conform to, conflict with, or relate to the criteria set forth in EMC 18.40.114110(D), as applicable;~~

~~4J. A completed SEPA checklist including the supplement sheet for nonproject actions; and~~

~~5K. A title report dated within 30 days of submittal for the subject property; and~~

~~L. The application fee, as established by the city. (Ord. 17-500 § 5).~~

18.40.114—Criteria for approval of quasi-judicial map amendment.**DA. Criteria of approval.****1. General rules:**~~The following general rules apply to quasi-judicial map amendment applications:~~

- ~~a1.~~ There is no presumption of validity favoring the action of rezoning;
- ~~b2.~~ The proponents of the rezone have the burden of proof to demonstrate that conditions have changed since the original zoning; and
- ~~c3.~~ The rezone must bear a substantial relationship to enhances the public health, safety, ~~morals or and~~ welfare.

2B. The applicant must demonstrate compliance with the following criteria for approval of a site-specific rezone.~~Implementation of the general rules in subsection (A) of this section involves analysis of the following criteria in order to approve a quasi-judicial map amendment:~~

- ~~a1. The proposed rezone is consistent~~ Consistency with the existing comprehensive plan and complies with all other applicable city regulations (the comprehensive plan that has been approved and is in place at the time of complete application; the application was submitted);
- ~~b2. The subject property is suitable as is for development in general conformance with the purpose and zoning standards under the proposed zoning district and would not require a variance request in order to develop the property with a change in zoning;~~ Consistency with the purpose of the proposed zoning district;
- ~~3. Consistency between zone criteria and area characteristics;~~
- ~~4. Zoning history and precedential effect. Previous and potential zoning changes both in and around the area identified in the application shall be examined;~~
- ~~c5. The impact of more intense zones on less intense zones or industrial and commercial zones on other zones shall be minimized by the use of transitions or buffers, if possible. A gradual transition between zoning categories, including height limits, is preferred.~~
- ~~d. Physical buffers may provide an effective separation between different uses and intensities of development. The following elements may be considered as buffers:~~
 - ~~ia.~~ Natural features including but not limited to topographical breaks, lakes, streams, and ravines;
 - ~~iib.~~ Major traffic arterials and railroad tracks;
 - ~~iiie.~~ Distinct change in street layout and block orientation;
 - ~~iiid.~~ Open space and greenspaces;
- ~~e6. Zone boundaries. Commercial and residential areas are established so that commercial uses face each other across the street on which they are located, and face away from adjacent residential areas, except where physical buffers can provide a more effective separation between uses~~
- ~~a. In establishing boundaries, the following elements shall be considered:~~
 - ~~i. Physical buffers as described in subsection (B)(5) of this section; and~~
 - ~~ii. Platted lot lines.~~
- ~~b. Boundaries between commercial and residential areas shall generally be established so that commercial uses face each other across the street on which they are located, and face away from adjacent residential~~

areas. An exception may be made when physical buffers can provide a more effective separation between uses;

7. Height Limits. In general, height limits greater than 35 feet should be limited to areas where higher height limits would be consistent with the comprehensive plan or where the designation would be consistent with the existing built character of the area;

8. The rezone will not be materially detrimental to uses or property in the immediate vicinity of the subject property; Impact Evaluation. The evaluation of the changes that would result from approval of the application shall consider the possible negative and positive impacts on the affected area and its surroundings. Factors to be examined include, but are not limited to, the following:

a. Housing;

b. Public services;

c. Environmental factors, such as noise, air and water quality, terrestrial and aquatic flora and fauna, glare, odor, shadows and energy conservation;

d. Pedestrian safety;

e. Manufacturing activity;

f. Employment activity;

g. Character of areas recognized for architectural or historic value;

h. Shoreline view, public access and recreation;

i. Adequate public facilities and services are available, or can be made available, to serve the development allowed by the proposed rezone. Service Capacities. Development which can be reasonably anticipated based on the proposed development potential shall not exceed the service capacities which can reasonably be anticipated in the area, including: street access to the area; street capacity in the area; transit service; parking capacity; utility and sewer capacity; shoreline navigation;

9. The rezone is warranted because of significantly changed conditions on the site or in the surrounding area; Changed Circumstances. Consideration of changed circumstances shall be limited to elements or conditions included in the criteria for the relevant zone designations in the Zoning Code;

10. The probable adverse environmental impacts of the types of development allowed by the proposed zone can be mitigated taking into account all applicable regulations. Critical Areas. If the area is located in or adjacent to a critical area, the effect of the rezone on the critical area shall be considered. (Ord. 17-500 § 6).

18.40.115—Conditioning.

E. Conditions. A quasi-judicial map amendment site-specific rezone may be conditioned based on the criteria set forth in EMC 18.40.114 this section and RCW 43.21C.060 (SEPA). Conditions shall be included in a development agreement recorded against the subject property. (Ord. 17-500 § 7).

18.40.116—Deadline for final decision.

F. Deadline for a final decision. A quasi-judicial map site specific rezone amendment shall be approved, approved with conditions or denied within 1270 days after the application has been determined complete per RCW 36.70B.

18.40.117—Expiration.

G. Expiration.

1A. A quasi-judicial amendment site-specific rezone approval with or without a development agreement shall expire three years from the effective date of the approval, unless:

a1. If, prior to the end of the three-year period, a complete application is filed for a building permit that is subsequently issued; or

b2. Another time for expiration is specified in the final decision or development agreement.

2B. When a ~~quasi-judicial amendment~~site-specific rezone expires, the official land use map shall be amended so that the zoning designation in effect immediately prior to the approval shall reapply to the subject property, except as otherwise expressly provided in the original ordinance adopting site-specific rezone. ~~the quasi-judicial amendment.~~ (Ord. 17-500 § 9).

18.40.120 Process V – Legislative review.

A. Purpose. To establish procedures for amendment of the city's comprehensive plan map/text and the development regulations. Various provisions of this chapter indicate that certain proposals to amend the zoning map through a legislative rezone, or amend the comprehensive plan must be reviewed and decided upon using Process V.

~~B. Thirty days prior to December 31st, the city shall notify the public that Comprehensive Plan map/text amendments are due by December 31st. The notice shall be provided in the newspaper of record and posted on city's notice board and any other noticing required by the community development director.~~

CB. All applicants seeking an amendment to comprehensive land use designations of the official comprehensive plan (site-specific requests) is recommended to apply for a preapplication conference with the city's staff.

DB. Submittal Deadline:

1. Development Regulation Amendments: See EMC 18.60.040.

2. Comprehensive Plan Map and/or Text Amendments: See EMC 18.60.130.

~~E. Determination of Completeness. See EMC 18.60.050, Requirements for a complete application. A proposal that will be reviewed using this process may be initiated by the city council or council committee, or requested by the planning commission, city staff, or any interested person, including applicants, citizens, hearing examiners, and staff of other agencies.~~

FC. The community development department shall maintain a docket of all changes to the comprehensive plan or development regulations and proposed by interested persons (including development applicants, citizens, hearing examiners, and/or other agencies and staff). The comprehensive plan map/text amendment docket shall be maintained in compliance with EMC 18.60.130 through 18.60.230.

~~GD. SEPA. Subject to compliance with EMC 18.60.060, 18.60.200, and Chapter 20.05 EMC, The State-Environmental Policy Act applies to some of the decisions that will be made using this process. The community development director or designee shall evaluate each proposal and, where applicable, comply with the State-Environmental Policy Act and with state regulations and city ordinances issued under authority of the State-Environmental Policy Act.~~

E. City Council Review.

~~1. The city council shall review all requests docketed with the community development department concurrently, on an annual basis and consistent with RCW 36.70A.130(2). As part of such annual review, the council shall review all requests received prior to December 31st of the calendar year. Requests submitted after December 31st shall be considered during the following annual review.~~

~~2. The city council shall review city-initiated changes to the text of the comprehensive plan concurrently with docketed amendment requests. The city council may also review or amend the comprehensive plan whenever an emergency exists, to resolve an appeal of the comprehensive plan or amendments thereto, or in other circumstances as provided for by RCW 36.70A.130(2)(a). The city council may also review city-initiated changes to the text of this chapter or to the city's zoning map from time to time at the council's discretion.~~

Commented [JK1]: Adding this for clarity. Reduced it to 30-days.

Commented [JM2R1]: I would keep this at 60 days, as it takes a decent amount of time to prepare an application.

I also generally struggle with requiring notice of the application deadline, but it does seem to be loosely supported by RCW 36.70A.140 - thoughts?

Commented [JK3R1]: Its more about letting people know that if they want to apply for a comp plan amendment in the next docket, they need to do it by X date. Otherwise, they will have to wait one additional year. Its less about public input but more public education.

Theres no stated requirement though of posting the notice on site and publication of notice. We can just delete it and have the date provided on the website.

Commented [JM4R1]: Let's delete and then update the Public Participation Program to reflect that we will endeavor to provide advance notice. UPDATE THE REST OF THE SECTION LABELS

Commented [JM5]: I think this falls outside of the boundaries of SB 5290, so I think we'd be okay to require a preapp in this instance... what do you think?

Commented [JK6R5]: Project permit excludes amendments, so yes I do think we can require it and not trigger a refund. Although, we probably do it anyways by 2034.

Commented [JM7R5]: We can incorporate a mandatory meeting for complex applications as needed, via policy.

3. The city council may request, through the community development director, that the community development department or any other department of the city provide any information or material on the proposal(s), consistent with subsection (R) of this section.

F. Sixty days prior to December 31st in each calendar year, the city shall notify all persons who submitted application forms after December 31st of the previous calendar year. Notice shall also be given as follows:

1. Public notice notifying the public that the amendment process has begun shall be published in the city's official newspaper.
2. Notice shall be posted on the official city public notice boards.
3. A copy of the notice shall be mailed to other local newspapers.
4. All agencies, organizations, and adjacent jurisdictions with an interest and all persons who, in the judgment of the community development director or designee, may be directly affected by changes to the comprehensive plan shall be sent a copy of the notice. In determining who may be affected by comprehensive plan changes, the director may rely on written correspondence indicating an interest and received after December 31st of the previous year.

G. Any person, personally or through an agent, may apply for a site-specific comprehensive plan designation change with respect to property owned. In addition, any person may, personally or through an agent, request changes to the text of the comprehensive plan or development regulations codified in this chapter.

1. An applicant must complete a docket form prepared by the city. An applicant seeking a site-specific plan or zoning designation change shall also file the information specified in EMC 18.40.110(C)(2) with the community development department.
2. The community development director or designee shall have the authority to waive any of the requirements of this section if, in the director's discretion, such information is not relevant or would not be useful to consideration of the proposed amendment.
3. There is no fee for this initial application. After the prioritization process, applications to be considered during the amendment process shall submit the fee as set forth in the city of Edgewood fee schedule.

H. Criteria for Prioritizing Plan Amendment Requests. See EMC 18.60.140 through 18.60.170.

1. After December 31st, but prior to adopting any amendment requests, the city council shall hold a public hearing and select those amendment requests it wishes to consider for adoption.
2. The city council shall consider the following criteria following a public hearing in selecting the comprehensive plan amendments to be considered during the upcoming cycle:
 - a. Whether the same area or issue was studied during the last amendment process and conditions in the immediate vicinity have significantly changed so as to make the requested change within the public interest.
 - b. Whether the proposed amendment is consistent with the overall vision of the comprehensive plan.
 - c. Whether the proposed amendment meets existing state and local laws, including the Growth Management Act.
 - d. In the case of text amendments or other amendments to goals and policies, whether the request benefits the city as a whole versus a selected group.
3. If the request meets the criteria set forth in subsections (H)(2)(a) through (d) of this section, it shall be further evaluated according to the following criteria:

- a. Whether the proposed amendment can be incorporated into planned or active projects.
- b. Amount of analysis necessary to reach a recommendation on the request. If a large-scale study is required, a request may have to be delayed until the following year due to work loads, staffing levels, etc.
- c. A large volume of requests may necessitate that some requests be reviewed in a subsequent year.
- d. Order of requests received.

4. Based on its review of requests according to the criteria in subsections (H)(2) and (3) of this section, the council shall determine which requests shall be further considered for adoption, and shall forward those requests to the planning commission for its review and recommendation.

5. The council's decision to consider a proposed amendment shall not constitute a decision or recommendation that the proposed amendment should be adopted nor does it preclude later council action to add or delete an amendment for consideration.

I. All applicants seeking an amendment to comprehensive land use designations of the official comprehensive plan (site-specific requests) must apply for a preapplication conference with the city's staff.

J. Legislative Rezones:

1. Legislative rezone is a rezone that meets the following criteria:

- a. It is initiated by the city; and
- b. It includes a large number of properties which would be similarly affected by the proposed rezone.

2. All other rezones not meeting the above criteria are treated as quasi-judicial rezones and are reviewed and decided upon using Process IV.

K. The city may decide to approve a legislative rezone only if it finds that:

- 1. The proposal is consistent with the comprehensive plan;
- 2. The proposal bears a substantial relation to public health, safety, or welfare; and
- 3. The proposal is in the best interest of the residents of the city.

L. If the city approves a legislative rezone it will give effect to this decision by making the necessary amendment to the zoning map of the city.

M. The city may amend the text of this chapter only if it finds that:

- 1. The proposed amendment is consistent with the applicable provisions of the comprehensive plan;
- 2. The proposed amendment bears a substantial relation to public health, safety, or welfare; and
- 3. The proposed amendment is in the best interest of the residents of the city.

N. The city may consider, but is not limited to, the following factors when considering a proposed amendment to the comprehensive plan:

- 1. The effect upon the physical environment.
- 2. The effect on open space, streams, and lakes.
- 3. The compatibility with and impact on adjacent land uses and surrounding neighborhoods.

4. The adequacy of and impact on community facilities including utilities, roads, public transportation, parks, recreation, and schools.

5. The benefit to the neighborhood, city, and region.

6. The quantity and location of land planned for the proposed land use type and density and the demand for such land.

7. The current and projected population density in the area.

8. The effect upon other aspects of the comprehensive plan.

9. For site-specific comprehensive plan amendments, the provisions of EMC 18.40.110(M) shall also apply.

~~O. The city may amend the comprehensive plan only if it finds that:~~

1. The proposed amendment bears a substantial relationship to public health, safety, or welfare; and

2. The proposed amendment is in the best interest of the residents of the city; and

3. The proposed amendment is consistent with the requirements of RCW 36.70A.103 and with the portion of the city's adopted plan not affected by the amendment.

IP. Official File:

~~1. The community development director or designee shall compile an official file containing all information and materials relevant to the proposal and to the city's consideration of the proposal.~~

1. The community development director or designee shall compile an official file on the application containing the following:

a. application materials

b. public comments

c. The staff report(s).

d. The electronic recording of the public hearing on the matter.

e. The decision of the Planning Commission and City Council.

~~2. The official file is a public record. It is available for inspection and copying in the department of community development during regular business hours.~~

JQ. Notice of Public Hearing. ~~Notice provisions under this section shall be followed for both the development regulations amendment and comprehensive plan map/text amendment public hearings during which all requests for changes to the zoning map, zoning text, and the comprehensive plan are prioritized, as well as the public hearing held on individual requests.~~

K1. The public hearing is subject to EMC 18.60.070, Public notice. The public notice shall comply with EMC 18.60.070(d) and provide the following additional details: The community development director or designee shall prepare a notice of each proposal, for which a public hearing will be held, containing the following information:

a. The citation, if any, of the provision that would be changed by the proposal along with a brief description of that provision.

b. A statement of how the proposal would change the affected provision.

~~e. A statement of what areas, zones, or locations will be directly affected or changed by the proposal.~~

~~d. The date, time, and place of the public hearing.~~

~~ae. A statement of the availability of the official file.~~

~~bf. A statement of the right of any person to submit written comments to the planning commission and to appear at the public hearing of the planning commission to give comments orally.~~

~~2. The community development director or designee shall distribute this notice at least 14 calendar days before the public hearing following the procedures of EMC 18.40.190, Notice of public hearing. In addition, the procedures of EMC 18.40.150, Determination of completeness, shall be followed for site-specific requests regarding notification of adjacent property owners posting of the site.~~

L.R. Staff Report.

1. The community development director or designee shall prepare a staff report containing:

- a. An analysis of the proposal against EMC 18.60.220 and a recommendation on the proposal; and
- b. Any other information the community development director or designee determines is necessary for consideration of the proposal, consistent with subsection (E) of this section.

2. The community development director or designee shall distribute the staff report as follows:

- a. Each member of the planning commission prior to the hearing.
- b. Any person requesting it parties of record.

MS. The planning commission shall hold public hearings on each proposal, consistent with EMC 18.40.110, Process IV—Quasi-judicial rezones, unless the city council elects to hold its own hearings on the proposal, in which case planning commission review pursuant to this process shall not be required.

1. The hearings of the planning commission are open to the public.
2. Except as provided in subsection (S)(1) of this section, the hearing of the planning commission is the hearing for city council. City council need not hold another hearing on the proposal.

T. Material to be Considered.

~~1. Except as specified in subsections (T)(2) and (3) of this section, the planning commission and city council may consider any pertinent information or materials in reviewing and deciding upon a proposal under this process.~~

~~2. Except as specified in subsection (T)(3) of this section, the city may not consider a specific site plan or project in reviewing and deciding upon a proposal under this process.~~

~~3. If a proposal that will be decided upon using this process is part of a specific project, the city may consider all information pertaining to SEPA environmental review and submitted under subsection (D) of this section, in deciding upon that proposal.~~

U. The planning commission shall make a complete electronic audio recording of each public hearing.

NV. Any interested person may participate in the planning commission public hearing in either or both of the options describe in EMC 18.40.190(1)(4) for Hearing Examiner Public Hearing participation, following ways:

~~1. By submitting written comments to the planning commission either by delivering these comments to the community development department prior to the hearing or by giving them directly to the planning commission at the hearing.~~

~~2. By appearing in person, or through a representative, at the hearing and making oral comments. The planning commission may reasonably limit the extent of oral comments to facilitate the orderly and timely conduct of the hearing.~~

~~W. The planning commission may, for any reason, continue the hearing on the proposal. If, during the hearing, the planning commission announces the time and place of the next public hearing on the proposal and a notice thereof is posted on the door of the hearing room, no further notice of that hearing need be given.~~

~~QX.~~ Planning Commission Recommendation.

1. Following the public hearing, the planning commission shall consider the proposal ~~in light of considering~~ the decisional criteria in ~~subsection (H) EMC 18.60.220~~ of this section, and take one of the following actions:

- a. If the planning commission determines that the proposal should be adopted, it may, by a majority vote of the entire membership, recommend that city council adopt the proposal.
- b. If the planning commission determines that the proposal should not be adopted, it may, by a majority vote of the members present, recommend that city council not adopt the proposal.
- c. If the planning commission is unable to take either of the actions ~~specified in subsection (X)(1)(a) or (b) of this section~~, the proposal will be sent to city council with the notation that the planning commission makes no recommendation.

2. The planning commission may modify the proposal in any way and to any degree prior to recommending the proposal to city council for adoption. If the planning commission fundamentally modifies the proposal, the planning commission shall hold a new public hearing on the proposal as modified prior to recommending the proposal to city council for action.

~~PY.~~ Report to City Council.

1. The community development director or designee shall prepare a planning commission report on the proposal containing a copy of the proposal, along with any explanatory information, and the planning commission recommendation, if any, on the proposal.

~~2. The community development director or designee shall transmit the planning commission report to the community development director for consideration by city council.~~

3. The community development director or designee shall promptly send a copy of the planning commission report to ~~any person requesting it all parties of record~~.

~~QZ.~~ City Council Action.

1. Within 60 days of receipt of the planning commission report by the community development director, the city council shall consider the proposal along with a draft ordinance prepared by the city attorney, appropriate to enact or adopt the proposal.

2. In deciding upon the proposal, the city council shall use the decisional criteria listed ~~in the provisions of this chapter describing the proposal EMC 18.60.220~~

3. After consideration of the planning commission report and, at its discretion, holding its own public hearing on the proposal, the city council shall ~~by majority vote of its total membership~~:

- a. Approve the proposal by adopting an appropriate ordinance;
- b. Modify and approve the proposal by adopting an appropriate ordinance;
- c. Disapprove the proposal by resolution; or

- d. Refer the proposal back to the planning commission for further proceedings. If this occurs, the city council shall specify the time within which the planning commission shall report back to the city council on the proposal.

~~RAA. State Transmittal: See EMC 18.60.060, EMC 18.60.100, and EMC 18.60.240, as applicable. At least 60 days prior to final action being taken by the city council, but not prior to the close of the planning commission public hearing and transmittal of planning commission recommendation to the State Department of Community Trade and Economic Development (CTED) and other interested affected local and state agencies, the county and surrounding jurisdictions shall be provided with a copy of the amendments in order to initiate the 60-day comment period. All other parties previously notified shall be again notified that the draft amendments of the comprehensive plan are available on request on a cost recovery basis. No later than 10 days after adoption of the comprehensive plan, a copy of the adopted comprehensive plan shall be forwarded to CTED and others who submitted written comments on the draft comprehensive plan.~~

~~BB. Appeals: development regulations and/or comprehensive plan map/text amendment appeals are subject to EMC 18.60.110 and EMC 18.60.240, respectively. The action of the city in granting, modifying or denying an amendment to this chapter or to the comprehensive plan may be reviewed by the Central Puget Sound Growth Management Hearings Board pursuant to RCW 36.70A.280.~~

18.40.130 Preapplication conference.

- A. The purpose of the preapplication process is for the applicant to provide city staff with the necessary information about the proposed project and site conditions so that the city can efficiently and effectively provide the applicant with the requirements that must be met to have the proposal proceed through the formal review process.
- B. Any potential applicant may request a pre-application meeting. For the city to accurately evaluate the proposed project at the preapplication conference, the applicant should provide at a minimum:
1. Project narrative;
 2. List of questions;
 3. Draft site plan;
 4. Draft building elevations, if applicable; and
 5. Any other drawings or documents helpful to illustrate the proposal.
- C. At a minimum, the meeting shall be scheduled with applicable representatives from the city, including but not limited to the planning, engineering, and building divisions. Representatives from other departments or agencies are encouraged to attend to provide comments on the proposed land use development permit application.
- D. It is impossible for the conference to be an exhaustive review of all potential issues. The discussions at the meeting shall not bind or prohibit the city's future application or enforcement of all applicable laws.
- E. Review of a proposal at a pre-application meeting does not vest any project.

~~The purpose of the preapplication conference shall be to acquaint the applicant with the substantive and procedural requirements of the Edgewood Municipal Code and applicable elements of the comprehensive plan, arrange such technical and design assistance as will aid the applicant, and to otherwise identify policies and regulations associated with the proposed development.~~

~~A. A preapplication conference shall be required for all Process III and Process IV permits and all Process I and Process II permits that require environmental review. A preapplication conference may also be required for any project subject to the requirements of Chapter 18.95 EMC, Design Standards, at the discretion of the community development director or designee. Only one preapplication conference shall be required for all project permit applications related to the same project, though an applicant may elect to arrange multiple preapplication conferences in relationship to a given project. A preapplication conference shall precede the submittal of any project~~

Commented [JM8]: Redirect to EMC 18.60

Commented [JM9R8]: Note: The old EMC 18.60.050 Moratoria was eliminated with the 2017 updates, wondering if we should have something re-introduced? Here is the text, for reference.

18.60.050 Moratoria.

Nothing in this title shall prevent the city council from establishing development moratoria or other interim land use regulations upon a finding by the city council that, due to unforeseen circumstances or other emergency, such a moratorium or temporary regulation is necessary in order to protect the purpose and effectiveness of the city's comprehensive plan and regulations, pending completion of the procedures necessary to adopt permanent land use controls. Any such moratorium or interim land use regulation shall be effective only for a period of a time necessary to complete adoption of the permanent land use control, which time shall be specified by the city council in the ordinance adopting the moratorium or other temporary regulation.

Pursuant to RCW 35.63.200, a council that adopts a moratorium without holding a public hearing on the proposed moratorium shall hold a public hearing on the adopted moratorium within at least 60 days of its adoption, whether or not the council or board received a recommendation on the matter from the commission. If the council does not adopt findings of fact justifying its action before this hearing, then the council shall do so immediately after this public hearing. A moratorium adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

permit application, including an environmental checklist. The community development director or designee may waive, in writing, the requirement for a preapplication conference for proposals that are determined not to be of a size and complexity to require the detailed analysis of a preapplication conference, or as otherwise determined not appropriate for such review.

B. To initiate a preapplication conference, an applicant shall submit a completed form provided by the city and all information pertaining to the proposal as prescribed by administrative procedures of the community development department. Failure to provide all pertinent information may prevent the city from identifying all applicable issues or providing the most effective preapplication conference.

18.40.140 Project permit applications.

A. All applications for permit, discretionary or zoning decision specified in this title shall be submitted on application forms prepared by the director.

B. All applications shall be signed by the property owner or an authorized representative.

C. All applications shall be accompanied by the required fees, as set forth in Chapter 3.35 EMC. ~~A. Applications for all project permits shall be submitted upon forms provided by the city and shall, at a minimum, consist of the materials specified in this section, plus any other materials required on the application form or by this title. Minimum required materials are as follows:~~

- ~~1. A completed development permit application form.~~
- ~~2. An explanation of intent, stating the nature of the proposed development, reasons for the permit request, pertinent background information, information required on the application form, technical reports, studies and data required to address conditions on the site or criteria of the permit or approval requested, and other information that may have a bearing in determining the action to be taken.~~
- ~~3. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.~~
- ~~4. Legal description of the property affected by the application.~~
- ~~5. Additional information required by other sections of this title because of the type of development proposal or the area involved.~~
- ~~6. The fee established for such application as set forth in the city of Edgewood fee schedule.~~

~~B. Application materials shall be submitted to the community development director or designee who shall have the date of submission indicated on each copy of the materials submitted.~~

~~C. Following a determination that an application is complete, the city shall begin project review.~~

18.40.150 Determination of completeness (RCW 36.70B.070).

A. For the purposes of this title, a complete application is one that contains all items required under EMC 18.40.140. ~~For the purposes of this title, a complete application is one that contains all required information, supporting documentation, and signatures, as outlined on the project permit application, and which is accompanied by payment of any and all fees as set forth in the city of Edgewood fee schedule.~~ 1. Time Limitations:

a. Calculation of Time Periods for Issuance of Notice of Final Decision. ~~In determining the number of calendar days that have elapsed after the city has notified the applicant that the application is complete for purposes of calculating the time for issuance of the notice of decision, the following periods shall be excluded:~~

i. Any period during which the applicant has been requested by the city to correct plans, perform required studies, provide additional required information, or otherwise requires the applicant to act. 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 calendar days after the date the information has been provided to the city;

ii. If the city determines that the information submitted by the applicant under EMC 18.40.150, Determination of completeness, is insufficient or incorrect;

iii. 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 city and the applicant in writing agree to a time period for completion of an environmental impact statement;

iv. Any period for administrative appeals of project permit applications, 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 calendar days for an open record appeal hearing; or

(B) Sixty calendar days for a closed record appeal, unless the parties agree to extend these time periods; and

2. Any extension of time mutually agreed upon by the applicant and the local government.

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

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

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

c. 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 pursuant to this section.

4. If the city is unable to issue its final decision within the time limits provided in this chapter, 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 a final decision. The city is not liable for damages due to the city's failure to make a final decision within the time limits established in this chapter.

B. Determination of complete application.

1. Within 28 calendar days after receiving a project permit application, the city shall provide a written determination of completeness to the applicant via electronic mail which states either that:

a. The application is complete; or

b. The application is incomplete and that the procedural submission requirements of the city have not been met. The determination will outline what is necessary to make the application procedurally complete. To the extent known by the city, the determination will identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.

2. If the city does not provide a written determination to the applicant that the application is incomplete within 28 calendar days, the application shall be deemed procedurally complete on the 29th day after receiving a project permit application. When the city does not provide a written determination to the applicant that the application is procedurally incomplete, the city may still seek additional information or studies as provided for in subsection (B)(3).

3. Additional information or studies may be required or project modifications may be undertaken subsequent to the procedural review of the application by the city. The city's determination of completeness shall not preclude the city from requesting additional information. However, if the procedural submission requirements, as outlined on the project permit application have been provided, the need for additional information or studies may not preclude a completeness determination.

C. If the applicant receives a written determination from the city that an application is not complete, the applicant shall have 90 calendar days to submit the necessary information to the city. If the applicant does not submit the required information within the 90 calendar day period, the application shall lapse due to a lack of information necessary to complete the review. No extensions shall be granted.

D. Within 14 calendar days after the applicant has submitted the requested additional information, the city shall make a determination as described in subsection (B) of this section; provided, however, that if upon review the application remains procedurally incomplete, the application shall lapse due to a lack of information necessary to complete the review, and the applicant shall be notified in writing of the determination.

18.40.160 Incorrect applications.

A. Following a determination of a complete application, if the city finds that additional information is necessary or corrections are required to make the proposal consistent with the comprehensive plan and development regulations, the city shall provide a letter to the applicant:

1. Detailing the necessary corrections;

2. Providing the response deadline; and

3. Include a notice that nonresponsiveness for 60 consecutive days may result in 30 days being added to the time for review permitted under EMC 18.40.200. Following a determination of a complete application and the commencement of project review, the city may make a determination in writing that some information is incorrect and require that corrected information be submitted. The applicant shall have up to 90 calendar days to submit corrected information. The city shall have 14 calendar days to review the submittal of corrected information.

B. the applicant receives a written determination from the city that corrections or additional information are necessary, the applicant shall have up to 90 days to submit the necessary information to the city.

1. The director may allow for up to a total of two (2) extensions to submit the required information, not to exceed an additional 90 days each. Requests must be made in writing a minimum of ten (10) days prior to the submittal deadline.

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

3. The city shall have 14 calendar days to review the submittal of corrected information.

C. If the application requires a second request for additional or corrected information, the city shall offer a meeting to attempt to resolve outstanding issues during the review process with the applicant. The meeting shall be scheduled within 14 calendar days of date of the correction letter, unless the applicant requests an alternative date. If the applicant refuses to meet, does not respond to the offer to meet, or if the meeting cannot resolve the issues and the city proceeds with a third request for additional information or corrections, the community development director or designee shall either approve or deny the application upon receiving the third submittal of additional information or corrected information. If the corrected information is still not found to be sufficient, the city shall notify the applicant in writing that the submitted information is incorrect, and the time period set forth in subsection (A) of this section shall be repeated. This process may continue until complete or corrected information is obtained.

C. If the requested corrected information is sufficient, the city shall continue with project review, in accordance with the time calculations exclusions set forth in EMC 18.40.150, Determination of completeness. If the applicant either refuses in writing to submit corrected information or does not submit the corrected information within the 90-calendar day period, the application shall lapse.

D. Appeal of an administrative determination of an incomplete or incorrect application shall be made pursuant to EMC 18.40.090(L), Appeals.

18.40.170 Referral of applications.

Within ~~10-14~~ calendar days of determining a complete application, the community development director or designee shall transmit a copy of the application, or appropriate parts of the application, to each appropriate agency and city department for review and comment, including those responsible for determining compliance with state, federal and county requirements. The affected agencies and city departments shall have 15 calendar 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 community development director or designee may grant an extension of time if the application involves unusual circumstances.

18.40.180 Notice of application (RCW 36.70B.060).

~~A. A notice of application shall be issued within 14 calendar days after the city has made a determination of completeness pursuant to EMC 18.40.150, Determination of completeness, for all Process I, and Process II permits that require SEPA review, and all short plats, and all Process III and Process IV applications; provided, that the notice of application shall be provided at least 15 calendar days prior to any required open record hearing. One notice of application shall be completed for all permit applications related to the same project at the time of the earliest complete permit application. A. Applicability. This section applies to all short plats and all Process II, III, IV, and V applications.~~

~~B. A notice of application shall not be required for project permits that are categorically exempt under chapter 43.21C RCW, unless an open record public hearing is required or an open record appeal hearing is allowed on the project permit decision. A notice of application shall not be required for project permits that are categorically exempt under SEPA, WAC 197-11-800(a) through (d), Categorical Exemptions, unless a public comment period or an open record hearing is required prior to the decision on the project.~~

C. The notice of application shall include the following:

1. The application number;
2. The name of the applicant;
3. The date of application, the date of the notice of complete application, and the date of the notice of application;
4. The physical location of the proposal, if applicable;
5. A description of the proposal;
6. A list of the permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070;
7. The identification of other permits not included in the application to the extent known by the local government;
8. The identification of existing environmental documents that evaluate the proposed project;
9. The location where the application and any studies can be reviewed;
10. A statement of the public comment period, which shall be not less than 14 nor more than 30 days following the date of notice of application;
11. 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.
12. The date, time, place, and type of public hearing, if applicable and scheduled at the date of notice of the application;

13. A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in RCW 36.70B.030(2) and 36.70B.040;

14. 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); and

15. Any other information determined appropriate by the director.

DC. Distribution. All required notices of application shall be:

1. Mailed to all owners of real property as shown by the records of the county assessor's office within 300 feet of the subject property;
2. Mailed or electronically mailed to any party of record, departments and agencies with jurisdiction, or any person who has made a written request to receive such notice;
3. Posted at the official city public notice board(s);
 - a. A minimum of one (1) public notice sign shall be required per street frontage.
 - b. In case of large parcels or street frontages exceeding 500 feet, the director may require the posting of additional signs.
4. The director(s) may publicize a given application more broadly or by additional means than stated herein if a greater level of public awareness is deemed necessary.
5. If the City is using the optional DNS process (WAC 197-11-355), EMC 20.05.200(A)(2) notice distribution standards will apply.
6. For short subdivisions and subdivisions, notice shall be given as provided in Title 16.

F. Timing. The notice of application shall be issued:

1. Within 14 days of determination that an application is complete; and
- 1-2. At least 15 days prior to any open record hearing. The notice of application process shall follow RCW 36.70B.110, or as hereafter amended.

18.40.190 Notice of public hearing.

A. Notice of public hearing is required for all types of applications for which a public hearing is held. Notice of public hearing ~~shall be reasonably calculated to give actual notice and~~ shall contain the following information:

1. The name 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 sketch or written description, other than a legal description;~~
3. The date, time, and place of the hearing;
4. The nature of the proposed use or development;
5. A statement that all interested persons may appear and provide testimony;
6. When and where information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be admitted;
7. The name of a city representative to contact and the telephone number where additional information may be obtained;

8. That a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at the cost of reproduction; and

9. That a copy of the staff report will be available for inspection at no cost at least five calendar days prior to the hearing and copies will be provided at the cost of reproduction.

10. A statement of the right of any person to submit written comments to the hearing examiner and to appear at the public hearing of the hearing examiner to give comments orally and the right to request a copy of the decision once made.

11. A statement that only persons who submit written or oral comments to the hearing examiner may appeal the hearing examiner's decision.

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

1. All owners of real property as shown by the records of the county assessor's office within 300 feet of the subject property; and

2. Any person who submits written comments on an application.

3. For Process V legislative actions, the city shall publish notice as described in this section, and use all other methods of notice as required by RCW 35A.12.160.

BC. Procedure for Posted and/or Published Notice of Public Hearing Procedures.

1. Posted notice of the public hearing is required for all Process III and Process IV permit actions. The posted notice of hearing shall be added to the sign already posted on the property pursuant to EMC 18.40.180, Notice of application.

2. The Published notice of the public hearing is required for all Process III and Process IV procedures. The published notice of public hearing shall be published at least once in a newspaper of general circulation within the city and contain the following information:

- a. Project location;
- b. Project description and nature of issues to be discussed at the hearing;
- c. Type of permit(s) required;
- d. Comment period dates and how written comments addressing findings required for a decision by the hearing body may be submitted; and
- e. The location where the complete application may be reviewed.

2. The posted notice of hearing shall be added to the sign already posted on the property pursuant to EMC 18.40.180, Notice of application.

3. Notice of Public Hearing for Process III and IV actions shall comply with EMC 18.40.180(D). Process V legislative actions shall require published notice in the local paper and use all other methods of notice as required by RCW 35A.12.160.

CD. Notice shall be mailed, posted and first published not less than 15 nor more than 30 days prior to the hearing requiring the notice. Any posted notice shall be removed by the applicant within 10 calendar days following the conclusion of public hearing(s).

DE. Open record hearings shall be conducted in accordance with this section. The community development director or designee shall be responsible for the hearing and shall:

1. Schedule an application for review and public hearing;
2. Give notice; however, applicant is responsible for some of the notice requirements;
3. 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 Process I or Process II project permit application, this report may be the permit; and
4. 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.
5. The hearing body shall be subject to the code of ethics and prohibitions on conflict of interest as set forth in RCW 35A.42.020 and Chapter 42.23 RCW, as the same now exists or may hereafter be amended.
6. Ex Parte Communications.
 - a. No member of the hearing body may communicate, directly or indirectly, regarding any issue in a quasi-judicial proceeding before them, other than to participate in communications necessary to procedural aspects of maintaining an orderly process, unless they provide notice and opportunity for all parties to participate; except as provided in this section:
 - i. The hearing body may receive advise from legal counsel; or
 - ii. The hearing body may communicate with staff members, except where the proceeding relates to a code enforcement investigation or prosecution.
 - b. If, before serving as the hearing body in a quasi-judicial proceeding, any member of the hearing body receives an ex parte communication of a type that could not properly be received while serving, the member of the hearing body, promptly after starting to serve, shall disclose the communication as described in subsection (E)(3)(c) of this section.
 - c. If the hearing body receives an ex parte communication in violation of this section, they shall place on the record:
 - i. All written communications received;
 - ii. All written responses to the communications;
 - iii. The substance of all oral communications received and all responses made; and
 - iv. The identity of each person from whom the hearing body received any ex parte communication.
 - d. The hearing body shall advise all parties that these matters have been placed on the record.
 - e. Upon request made within 10 calendar days 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.
7. Disqualification.
 - a. Any member who is disqualified may be counted only by making full disclosure to the audience, abstaining from voting on the disqualification, vacating the seat on the hearing body and physically leaving the hearing.

b. If all members of the hearing body are disqualified, all members present after stating their reasons for disqualification shall be requalified and shall proceed to resolve the issues.

c. Except for Process IV actions, 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.

8. The burden of proof is on the proponent, pursuant to EMC 18.30.090, Burden of proof. 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.

9. 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:

i. 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; and

ii. Any abstentions or disqualification shall be determined.

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

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

ii. 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 subsections (E)(6)(a) and (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.

10. The hearing body shall issue a recommendation or decision, as applicable, within 14 calendar days of the record being closed.

11. A party of record may ask for a reconsideration of a decision by the hearing examiner for a Process III action or a recommendation by the planning commission for a Process IV action. Reconsideration is not authorized for Process I and Process II applications. A reconsideration may be requested if either:

a. A specific error of fact or law can be identified; or

b. New evidence is available which was not available at the time of the hearing.

c. A request for reconsideration shall be filed by a party of record within seven working days of the date of the initial decision/recommendation. Any reconsideration request shall cite specific references to the

findings and/or criteria contained in the ordinances governing the type of application being reviewed. A request for reconsideration temporarily suspends the appeal deadline. The hearing examiner shall promptly review the reconsideration request and within 10 working days issue a written response, either approving or denying the request. If the reconsideration is denied, the appeal deadline of the hearing examiner's decision shall recommence for the remaining number of days. If a request for reconsideration is accepted, a decision is not final until after a decision on reconsideration is issued.

EF. The community development director or designee 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 other agency consents to the hearing;
2. The other agency is not expressly prohibited by statute from doing so;
3. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;
4. 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
5. The hearing is held within the Edgewood city limits.

F. An applicant may request that the public hearing on a permit application be combined as long as the hearing can be held within the time periods set forth in this chapter. In the alternative, the applicant may agree to a particular schedule if additional time is needed in order to complete the hearings.

~~G. Following a decision of a project permit by the applicable decision-making body, 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 appeal.~~

- ~~1. The notice of decision shall be issued within 120 calendar days after the city notifies the applicant that the application is complete. The time frames set forth in this section shall apply to project permit applications filed on or after the effective date of this title.~~
- ~~2. 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.~~
- ~~3. Notice of the decision shall be provided to the public as set forth in EMC 18.40.190, Notice of public hearing. The city shall provide notice of the decision to the county assessor's office if affected property owners' request a change in valuation for property tax purposes.~~
- ~~4. If the city is unable to issue its final decision on a project permit application within the time limits provided for in this chapter, it shall provide written notice of this fact to the parties of record. 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.~~

H. Closed Record Hearings and Administrative Appeals:

- ~~1. This section allows for administrative appeals as provided in the framework in EMC 18.40.090, Process II—Administrative action. Administrative appeals are heard by the hearing examiner or city council, as applicable.~~
- ~~2. 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.~~

~~b. Appeals of environmental determinations under EMC Title 20, SEPA, including administrative appeals of a threshold determination shall proceed as provided in that chapter.~~

~~3. Only parties of record may initiate an administrative appeal on a project permit application.~~

~~4. An appeal must be filed as specified in EMC 18.40.090(L), Appeals.~~

~~5. Appeals shall be in writing, be accompanied by an appeal fee as set forth in the city of Edgewood fee schedule, and contain all the information as specified in EMC 18.40.090(L), Appeals.~~

~~6. The timely filing of an appeal shall stay the effective date of the decision until such time as the appeal is adjudicated by the hearing examiner or city council, as applicable, or is withdrawn.~~

~~7. Public notice of the appeal shall be given as provided in EMC 18.40.190, Notice of public hearing.~~

~~8. The closed record decision/appeal hearing shall be on the record before the hearing body and no new evidence may be presented. The following subsections of this title shall apply to a closed record decision/appeal hearing:~~

~~a. Subsection (E)(2) of this section;~~

~~b. Subsection (E)(3) of this section;~~

~~c. Subsection (E)(4) of this section;~~

~~d. Subsection (E)(5) of this section;~~

~~e. Subsection (E)(6) of this section;~~

~~f. Subsection (G) of this section.~~

~~I. Judicial Appeals.~~

~~1. The city's final decision or appeal decision on a Process I, II, III, IV, or V application may be appealed by a party of record with standing to file a land use petition in Pierce County superior court.~~

~~2. A land use petition must be filed within 21 calendar days of issuance of the notice of decision or appeal decision.~~

~~3. A land use petition shall be filed according to the procedural standards outlined in Chapter 36.70C RCW, Judicial Review of Land Use Decisions, also known as the "Land Use Petition Act."~~

18.40.200 Notice of Decision

A. The Decision-Making Body (identified in EMC 18.40.190) shall issue the notice of decision within the specified times contained in the Chapter.

B. Time periods for final decisions shall be:

1. Process I Applications: 65 days;

2. Process II Applications: 100 days;

3. Process III, IV, and V Applications: 170 days

C. The number of days an application is in review shall be calculated from the day completeness is determined under EMC 18.40.150 to the date a final decision is issued on the project permit application.

D. The number of days in review shall be calculated by counting every calendar day, excluding the following periods:

1. The period between the day that the city has notified the applicant, in writing, that additional information is required to further process the application and the day when the applicant is notified in writing that the additional information satisfies the request or 14 days after the last required resubmitted information;
2. Any period after an applicant informs the city, in writing, that they request a temporarily suspend review of the application, until the time that the applicant notifies the city, in writing, that they would like to resume the application:
 - a. If any request to suspend the application or to resume review is received on a Saturday, Sunday, a day designated by RCW 1.16.050 or by the city's ordinances as a legal holiday, then the corresponding date shall be calculated from the next business day;
 - b. Any such suspension shall be permitted a maximum of one time for a minimum of 60 days and a maximum of 180 days; and
 - c. If the city does not receive notice to resume review, the application shall lapse;
 - d. If an applicant suspends the review of an application for more than 60 days, an additional 30 days will be added to the time periods for final decision.
3. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW.
4. If the application requires approval of a Development Agreement, or amendments to the Comprehensive Plan, development regulations, or zone reclassification.
5. Annual amendments to the comprehensive plan.
6. The project permit is to rectify a code violation.
7. Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.
8. Any extension of time mutually agreed upon by the applicant and the city.
9. Any period during which a Landmark designation, street vacation, or other approval relating to the use of public areas or facilities is being considered.
10. Any of the following applications: Boundary line adjustment, final short subdivisions, final subdivisions, siting of essential public facilities, building applications and associated construction applications, site specific rezones.

E. The time periods for the city to process an application shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use.

D. Notice of Decision Contents:

1. Process I Notice of Decision. The notice of decision shall be the permit itself or a separate written decision with limited facts and findings.
2. All other Notice of Decisions. The notice of decision shall include the following in a written decision:
 - a. A statement granting, modifying and granting, or denying the application.
 - b. Any conditions and restrictions that are imposed.

c. A statement of facts presented by the community development director or designee that support the decision, including any conditions and restrictions that are imposed.

d. A statement of the Decision-Making Body conclusions based on those facts.

e. A statement of the criteria used in making the decision.

f. The date of the decision.

g. A summary of the rights, as established in this process, of the applicant and others to appeal the decision.

h. A statement of any threshold determination made under the State Environmental Policy Act, WAC 197-11-330, Threshold determination process.

F. Notice of Decision Distribution. The notice of decision shall be provided via mail or electronically 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. The city shall provide notice of the decision to the county assessor's office if affected property owners' request a change in valuation for property tax purposes.

18.40.210 Administrative appeals.

A. Applicability. This section applies to administrative appeals of decisions on project permit applications when allowed by this chapter.

B. Timing and contents of appeal. A letter of appeal must be delivered to the department of community development within 14 calendar days after issuance of the decision being appeals. The letter of appeal must include:

1. A statement identifying the decision being appealed, along with a copy of the decision;
2. A statement of the alleged errors in the decision, including identification of specific factual findings and conclusions of the community development director or designee disputed by the person filing the appeal;
3. The specific relief sought;
4. The appellant's name, address, and telephone number, and any other information to facilitate communications with the appellant; and
5. Payment of the fee as established by the city. The appeal will not be accepted unless it is accompanied by the required fee.

C. Standing. Only those persons with standing to appeal the decision may participate in the appeal. These persons may participate in either or both of the following ways:

1. By submitting written comments or information to the community development department prior to the hearing or to the hearing examiner during the hearing.
2. By appearing in person, or through a representative, at the hearing and submitting oral comments directly to the hearing examiner. The hearing examiner may reasonably limit the extent of the oral comments to facilitate the orderly and timely conduct of the hearing.

D. Staff Report on Appeal.

1. The community development director or designee shall prepare a staff report on the appeal containing the following:
 - a. The written decision being appealed.
 - b. All written comments submitted to the department.

c. The letter of appeal.

d. An analysis of the alleged errors in the decision and any specific factual findings and conclusions disputed in the letter of appeal.

2. At least seven calendar days before the hearing, the community development department shall distribute copies of the staff report on the appeal to the following:

a. The appellate body.

b. The applicant.

c. The person who filed the appeal.

E. Open Record Appeal.

1. Open record hearing on the appeal are open to the public.

2. The appellate body shall make an audio recording of each hearing.

3. The person filing the appeal has the responsibility of convincing the appellate body by a preponderance of the evidence that the decision contains an error of law or that its findings of fact or conclusions are incorrect pursuant to EMC 18.30.090, Burden of proof.

4. The scope of the appeal is limited to the errors raised or the specific factual findings and conclusions disputed in the letter of appeal. The appellate body may only consider evidence, testimony or comments relating to errors raised or the disputed findings and conclusions. The appellate body may not consider any request for modification or waiver of applicable requirements of this chapter or any other law.

5. The appellate body may continue the hearing if, for any reason, the appellate body is unable to hear all of the public comments on the appeal or if the appellate body determines that more information is needed within the scope of the appeal. If, during the hearing, the appellate body announces the time and place of the next hearing on the matter and a notice thereof is posted on the door of the hearing room, no further notice of that hearing need be given.

6. Decision on Appeal.

a. The appellate body shall consider all information and comments within the scope of the appeal submitted by persons entitled to participate in the appeal. The appellate body shall either affirm or change the findings and conclusions of the decision that were appealed. Based on the appellate body's findings and conclusions, the appellate body shall either affirm, reverse or modify the decision being appealed.

b. Within 10 working days after the public hearing, the appellate body shall issue a written decision on the appeal. Within five working days after it is issued, the appellate body shall distribute the decision as follows:

a. The applicant.

b. The person who filed the appeal.

c. Each person who participated in the appeal.

c. The decision by the hearing examiner is the final decision of the city, subject to review pursuant to RCW 36.70C.040 in the Pierce County superior court in accordance with EMC 18.40.220.

F. Closed Record Appeal.

1. Closed record appeal hearings are open to the public.

2. The city council shall make a complete electronic audio recording of each closed record appeal.

3. The person filing the appeal has the responsibility of convincing the city council by a preponderance of the evidence that the decision being appealed contains an error of law or that its findings of fact or conclusions are incorrect.

4. The scope of the appeal is limited to the specific errors raised or factual findings disputed in the letter of appeal. The city council shall consider only the following:

a. The information received by the department with the letter of appeal;

b. The record before the original decisionmaker, including admitted exhibits and evidence;

c. Appeal arguments by the appellant and other parties of record on appeal, provided that appeal argument shall address only the issues raised by the letter of appeal; and

d. New evidence that was not presented to or considered by the hearing examiner, but only if that evidence relates to the validity of the original decision at the time it was made and the party offering the new evidence did not know and was under no duty to discover or could not reasonably have discovered the evidence until after the original decision.

5. Decision on appeal. After considering the matter as provided in this section, the city council shall take one of the following actions:

a. If city council determines that the disputed findings of fact and conclusions are the correct findings of fact and conclusions, the council shall affirm the decision.

2. If city council determines that the disputed findings of fact and conclusions are not correct and that correct findings of fact and conclusions do not support the decision of the hearing examiner, the council shall modify or reverse the decision.

4. The decision of city council is the final decision of the city, subject to review pursuant to RCW 36.70C.040 in the Pierce County superior court in accordance with EMC 18.40.220.

G. Notice of Decision. Following the final decision on appeal, the community development director or designee shall prepare a notice of the city's final decision on the application. To the extent the decision does not do so, the notice shall include a statement of any threshold determination made under the State Environmental Policy Act, WAC 197-11-330.

G. The following apply to appeals allowed under SEPA:

1. The SEPA appeal is limited to review of a final threshold determination and final EIS.

2. No appeal of the intermediate steps under SEPA, such as lead agency determination, scoping, or draft EIS adequacy, is allowed.

3. Only one administrative appeal of a threshold determination or of the adequacy of an EIS is allowed. Successive administrative appeals on these issues are prohibited.

4. An appeal of SEPA procedures must be consolidated with any appeal of the associated project permit, except that the following need not be consolidated:

a. The appeal of a determination of significance;

b. An appeal of a procedural determination made by an agency when the agency is a project proponent, or is funding a project, and chooses to conduct its review under SEPA, including any appeals of its procedural determinations, prior to submitting an application for a project permit; and

c. An appeal of a procedural determination made by an agency on a nonproject action.

5. Judicial review of any SEPA determination must be coupled with an appeal of the city's final action on the underlying application.

H. Notice of Decision. Following the final decision on appeal, the community development director or designee shall prepare a notice of the city's final decision on the application. To the extent the decision does not do so, the notice shall include a statement of any threshold determination made under the State Environmental Policy Act, WAC 197-11-330.

18.40.220 Judicial appeals.

A. The city's final decision or appeal decision on a project permit application may be appealed by a party of record with standing to file a land use petition in Pierce County superior court.

B. A land use petition must be filed within 21 calendar days of issuance of the notice of decision or appeal decision in accordance with Chapter 36.70C RCW, Judicial Review of Land Use Decisions, also known as the "Land Use Petition Act."

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Exhibit C

18.95.020 Applicability

A. Site plan design review shall be required prior to the issuance of construction permits in any of the following circumstances:

1. The new construction of a nonresidential building or other structure;
2. The expansion, remodel, or alteration of any building or other structure by more than five percent of its existing floor area, or overall size in cases where floor area standards are not applicable;
3. The expansion of any building or structure that creates a new dwelling unit;
4. A change of use, or where traffic, parking, noise or other impacts are greater than the impacts for the previously existing use, as determined by the director; or
5. The construction and reconstruction of driveway approaches, gates, roads, shared access facilities, alleys, and driving surfaces within ingress/egress easements.

B. The following activities shall not require site plan design review:

1. Permits authorizing residential construction for detached single-family residential use and accessory dwelling units.
2. Any activity that does not require a building permit or is not considered a change in use, including but not limited to normal building maintenance and repair, as determined by the director.
3. Any activity on the exterior of a building that does not exceed a 25 percent change in any existing facade or roof form.
4. ~~Interior work that does not alter the exterior of the structure or affect parking standards as determined by the director.~~ alterations, provided that the interior alterations do not result in the following:

(a) Additional sleeping quarters or bedrooms;

(b) Nonconformity with Federal Emergency Management Agency (FEMA) substantial improvement thresholds; or

(c) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

Nothing in this subsection (4) exempts interior alterations from otherwise applicable building, plumbing, mechanical, or electrical codes. For purposes of this subsection (4), “interior alterations” include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.

~~5. Normal building maintenance and repair.~~

Exhibit D

16.04.030 Review procedures.

Full subdivision applications shall be reviewed in accordance with the following procedures:

A. A preliminary full subdivision application is reviewed as a Process III hearing examiner action pursuant to EMC 18.40.100.

B. A final plat application is reviewed as a Process IV quasi-judicial rezone pursuant to EMC 18.40.110.

C. Prior to submission of a preliminary full subdivision application, a preapplication conference as prescribed in EMC 18.40.130 is ~~required~~ recommended. ~~The applicant is responsible for submitting the required information and paying the appropriate fee as set forth in the city of Edgewood fee schedule.~~

16.04.040 Neighborhood meeting.

~~Following the preapplication conference and~~ ~~Prior prior to submission of~~ ~~submitting~~ a full subdivision application, a neighborhood meeting is required. The purpose of the neighborhood meeting is to allow the applicant to identify community concerns and receive public input on the preliminary plat application. The applicant shall take action minutes of the meeting and shall submit the minutes with the preliminary plat application.

The meeting shall be open to the public and a representative of the city should attend. The meeting shall be held on a weekday evening, but not during a city observed holiday. In order to schedule a neighborhood meeting, the applicant shall perform the following three steps: (A) contact the city to receive a mailing list consistent with the requirement set forth in EMC 16.01.080; (B) verify the date is not an observed holiday; and (C) pay the applicable fees as set forth in the city of Edgewood fee schedule. Once the meeting is scheduled, the applicant shall mail notice of the meeting to all property owners identified on the provided mailing list. The meeting notice shall be mailed at least 15 calendar days prior to the neighborhood meeting date. The applicant shall submit a copy of the mailed notice and an affidavit confirming all mailings with the preliminary plat application.

Exhibit E.

18.90.080 Housing incentives program.

A. The city is responsible for establishing regulations that will result in a variety of housing opportunities. To that end, the city's comprehensive plan contains policies designed to encourage affordable and special needs housing. Not only are a number of regulatory tools available to help stimulate the development of desired housing in the city, but some of these tools offer an additional benefit to the city as a whole in dispersing "qualified" housing such as affordable units throughout the city.

B. This section applies, at the developer's option, to land use applications for housing in identified zones below, except the construction of a single-family dwelling on one lot that can accommodate only one dwelling based upon the underlying zoning designation. This section shall not apply to adult family homes, nursing and residential care facilities, assisted living facilities and all group homes.

C. All housing developed under these standards shall meet all applicable federal, local, and state guidelines and requirements for limiting occupancy to identified qualified groups.

D. Inclusionary Density Bonuses.

1. In return for the inclusion of a number of on-site units dedicated to serving low-income and/or below market rate persons, one-half additional, on-site market-rate unit is permitted as a bonus for each qualified unit, to the extent that no more than a maximum total of 150 units are provided throughout the city. This must not exceed the prescribed density above the maximum density permitted in the underlying zoning district as shown below; provided, that only one-half bonus unit may be awarded per qualified unit, no matter how many qualifying categories it serves as shown the table below.

Table 4 Density Bonus

Zone	Permitted Density	Density Bonus	Maximum Density
Mixed Residential 1	4 dua	2 dua	6 dua
Mixed Residential 2	8 dua	4 dua	12 dua
Mixed Use Residential	6 dua	3 dua	9 dua
Commercial	8 dua	4 dua	12 dua
Town Center	10 dua	5 dua	15 dua

For the purpose of this section only, fractions of 0.5 or greater shall be rounded up to the nearest whole number when calculating the number of dwelling units or residential building lots that are permitted to be constructed.

2. Prior to the final approval of any land use application for which density bonuses are being sought, the owner of the affected parcel shall deliver to the city a duly executed covenant running with the land, in a form approved by the city attorney. The owner/applicant shall be responsible for the cost of preparing and recording the covenant and the owner/applicant or subsequent owner or operator shall be responsible for administering the covenant. The commencement date shall be the date that the first lease agreement with a renter within an applicable qualification group becomes effective.
3. The qualified units constructed under these provisions shall be integrated and dispersed within the development for which the density bonus is granted. The physical segregation of qualified housing units from unqualified market-rate housing units, or the congregation of qualified housing units into a single physical portion of the development is prohibited.
4. The size of the qualified units constructed under the provisions of this chapter shall be proportionate to the size of the units contained in the entire project (i.e., if 50 percent of the units in the project are one-bedroom units and 50 percent are two-bedroom units, then the qualified units shall be divided equally between one- and two-bedroom units).
5. If a project is to be phased, the proportion of qualified units to be completed with each phase shall be determined as part of the phasing plan approved by the community development director or designee.

E. A preapplication conference ~~will be required~~ is recommended for any land use application that includes a proposal for a density bonus under this program. Density bonus proposals shall be reviewed and approved concurrently with the related primary land use application and shall follow the established procedures for review and appeal, if necessary, of the permit type.

F. The community development department shall maintain a list of all qualified units created under this program. In conjunction with comprehensive plan review and amendment processes, the level and type of unit production and other factors relating to this program shall be evaluated to gauge how effectively these regulations are functioning and to direct necessary adjustments in the program.



Senate Bill 5290 Consistency Checklist
File No. 24-008CODE

SB 5290 Description: An act relating to consolidating local permit review processes; amending RCW 36.70B.140, 36.70B.020, 36.70B.070, 36.70B.080, and 36.70B.160; reenacting and amending RCW 36.70B.110; adding new sections to chapter 36.70B RCW; creating new sections; and providing an effective date.

Title 36 Revised Code of Washington (RCW)		
Local Project Review RCW 36.70B		
36.70B.010 Findings and declaration. *** NO CHANGES ***		
36.70B.020 Definitions. *** CHANGES EFFECTIVE JULY 23, 2023 ***		
Requirement	Existing Edgewood Code	Proposed Changes and Notes
Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter. (1) "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.	<u>EMC 18.20.060</u> : "Closed record appeals" means administrative appeals under RCW 36.70B.110, which are heard by the city council or hearing examiner, 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 arguments allowed.	No modification required, already compliant prior to SB 5290
(2) "Local government" means a county, city, or town.	N/A	N/A
(3) "Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information, under procedures prescribed by the local government by ordinance or resolution. An open record hearing may be held prior to a local government's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit.	<u>EMC 18.20.180</u> : "Open record hearing" means a hearing held by a decision-making body that is 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.	No modification required, this was already considered compliant and was not modified by Ordinance 23-0647.
(4) "Project permit" or "project permit application" means any land use or environmental permit or license required from a local government for a project action, including but not limited to subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones which do not require a comprehensive plan amendment, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.	<u>EMC 18.20.190</u> : "Project permit" means any land use or environmental permit or license required from the city of Edgewood for a project action, including but not limited to site development permits, fill and grade permits, subdivisions, binding site plans, planned unit developments, conditional uses, site plan(s), shoreline substantial development permits, development plan review, site-specific rezones which do not require a comprehensive plan amendment; but excluding adoption or amendment of a comprehensive plan, subarea plan or development regulations except as otherwise specifically included in this definition.	Modified to be compliant under Ordinance 23-0647 (effective until 12/31/2024). Need to reiterate this in ordinance.
(5) "Public meeting" means an informal 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 local government's decision. A public meeting may include, but is not limited to, a design review or architectural control board meeting, a special review district or community council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The	<u>EMC 18.20.190</u> : "Public meeting" means an informal or formal meeting, workshop, or other public gathering of persons to obtain comments from the public or other agencies on a proposed project permit prior to the city's decision, but is not an open record hearing.	Not an exact match, but no modification was made by Ordinance 23-0647 (effective until 12/31/2024). Since the last sentence states "may", it doesn't have to provided in the definition. No further change is recommended but need to reiterate this in ordinance.



Title 36 Revised Code of Washington (RCW)

Local Project Review [RCW 36.70B](#)

proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file.		
36.70B.030 Project review—Required elements—Limitations. *** NO CHANGES ***		
36.70B.040 Determination of consistency. *** NO CHANGES ***		
36.70B.050 Local government review of project permit applications required - Objectives. *** NO CHANGES ***		
36.70B.060 Local governments planning under the growth management act to establish integrated and consolidated project permit process—Required elements. *** NO CHANGES ***		
36.70B.070 Project permit applications—Determination of completeness—Notice to applicant. *** CHANGES EFFECTIVE JULY 23, 2023 ***		
Requirement	Existing Edgewood Code	Proposed Changes and Notes
(1) (a) Within 28 days after receiving a project permit application, a local government planning pursuant to RCW 36.70A.040 shall provide a written determination to the applicant. (b) The written determination must state either: (i) That the application is complete; or (ii) That the application is incomplete and that the procedural submission requirements of the local government have not been met. The determination shall outline what is necessary to make the application procedurally complete. (c) The number of days shall be calculated by counting every calendar day. (d) To the extent known by the local government, the local government shall identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.	<u>EMC 18.40.150(B)(1):</u> Within 28 calendar days after receiving a project permit application, the city shall provide a written determination of completeness to the applicant which states either that: a. The application is complete; or b. The application is incomplete and that the procedural submission requirements of the city have not been met. The determination will outline what is necessary to make the application procedurally complete. To the extent known by the city, the determination will identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application. <u>EMC 18.40.060(B)(1):</u> “Day” means calendar day.	Modified to be compliant under Ordinance 23-0647 (effective until 12/31/2024). Need to reiterate this in ordinance.
(2) A project permit application is complete for purposes of this section when it meets the procedural submission requirements of the local government, as outlined on the project permit application. Additional information or studies may be required or project modifications may be undertaken subsequent to the procedural review of the application by the local government. The determination of completeness shall not preclude the local government from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur. However, if the procedural submission requirements, as outlined on the project permit application have been provided, the need for additional information or studies may not preclude a completeness determination.	<u>EMC 18.40.150(A):</u> For the purposes of this title, a complete application is one that contains all required information, supporting documentation, and signatures, as outlined on the project permit application, and which is accompanied by payment of any and all fees as set forth in the city of Edgewood fee schedule. <u>EMC 18.40.150(B)(3):</u> Additional information or studies may be required or project modifications may be undertaken subsequent to the procedural review of the application by the city. 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 proposal. However, if the procedural submission requirements, as outlined on the project permit application, have been provided, the need for additional information or studies may not preclude a completeness determination.	Modified to be compliant under Ordinance 23-0647 (effective until 12/31/2024). Staff is recommended the following revisions to add clarity, reduce redundancies, and ensure compliance between Titles: <u>EMC 18.40.150(A):</u> For the purposes of this title, a complete application is one that contains all items required under EMC 18.40.140. <u>EMC 18.40.150(B)(3):</u> Additional information or studies may be required,or project modifications may be undertaken subsequent to the procedural review of the application by the city. The city’s determination of completeness shall not preclude the city from requesting additional information. However, if the procedural submission requirements, as outlined on the project permit application, have



Title 36 Revised Code of Washington (RCW)		
Local Project Review RCW 36.70B		
		been provided, the need for additional information or studies may not preclude a completeness determination.
(3) The determination of completeness may include or be combined with the following: (a) A preliminary determination of those development regulations that will be used for project mitigation; (b) A preliminary determination of consistency, as provided under RCW 36.70B.040 ; (c) Other information the local government chooses to include; or (d) The notice of application pursuant to the requirements in RCW 36.70B.110.	N/A	Not required and wasn't previously included under Ordinance 23-0647. Staff does not recommend any further changes to EMC 18.40.150(B).
36.70B.070 Project permit applications—Determination of completeness—Notice to applicant. *** CHANGES EFFECTIVE JULY 23, 2023 ***		
Requirement	Existing Edgewood Code	Proposed Changes and Notes
(4) (a) An application shall be deemed procedurally complete on the 29th day after receiving a project permit application under this section if the local government does not provide a written determination to the applicant that the application is procedurally incomplete as provided in subsection (1)(b)(ii) of this section. When the local government does not provide a written determination, they may still seek additional information or studies as provided for in subsection (2) of this section.	<u>EMC 18.40.150(B)(2):</u> If the city does not provide a written determination to the applicant that the application is incomplete within 28 calendar days, the application shall be deemed procedurally complete on the twenty-ninth day after receiving a project permit application. When the city does not provide a written determination to the applicant that the application is procedurally incomplete, the city may seek additional information or studies as provided for in subsection (B)(3) of this section. The time period guidelines for review of project permit applications begin following the determination of a complete application.	Modified to be compliant under Ordinance 23-0647 (effective until 12/31/2024. Staff is recommended the following revision to be consistent with Title 15: <u>EMC 18.40.150(B)(2):</u> If the city does not provide a written determination to the applicant that the application is incomplete within 28 calendar days, the application shall be deemed procedurally complete on the 29th day after receiving a project permit application. When the city does not provide a written determination to the applicant that the application is procedurally incomplete, the city may still seek additional information or studies as provided for in subsection (B)(3). The time period guidelines for review of project permit applications begin following the determination of a complete application.
(b) Within 14 days after an applicant has submitted to a local government additional information identified by the local government as being necessary for a complete application, the local government shall notify the applicant whether the application is complete or what additional information is necessary.	<u>EMC 18.40.150(C):</u> If the applicant receives a written determination from the city that an application is not complete, the applicant shall have up to 90 calendar days to submit the necessary information to the city. Within 14 calendar days after an applicant has submitted the requested additional information, the city shall make the determination as described in subsection (B) of this section, and notify the applicant in the same manner. If the applicant either refuses, in writing, to submit additional information, or does not submit the required information within the 90 calendar day period, the application shall lapse because of a lack of information necessary to complete the review.	Modified to be compliant under Ordinance 23-0647 (effective until 12/31/2024. Staff is recommended the following revision to be consistent with Title 15: <u>EMC 18.40.150(C):</u> If the applicant receives a written determination from the city that an application is not complete, the applicant shall have 90 calendar days to submit the necessary information to the city. If the applicant does not submit the required information within the 90-calendar-day period, the application shall lapse due to a lack of information necessary to complete the review. No extensions shall be granted



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		<u>EMC 18.40.150(D):</u> Within 14 calendar days after the applicant has submitted the requested additional information, the city shall make a determination as described in subsection (B) of this section; provided, however, that if upon review the application remains procedurally incomplete, the application shall lapse due to a lack of information necessary to complete the review, and the applicant shall be notified in writing of the determination.
(c) The notice of application shall be provided within 14 days after the determination of completeness pursuant to RCW 36.70B.110.	<u>EMC 18.40.180(A):</u> A notice of application shall be issued within 14 calendar days after the city has made a determination of completeness pursuant to EMC 18.40.150, Determination of completeness, for all Process I, and Process II permits that require SEPA review, and all short plats, and all Process III and Process IV applications; provided, that the notice of application shall be provided at least 15 calendar days prior to any required open record hearing. One notice of application shall be completed for all permit applications related to the same project at the time of the earliest complete permit application.	Modified to be compliant under Ordinance 23-0647 (effective until 12/31/2024. Staff is recommended the following revision for additional consistency and formatting: <u>EMC 18.40.150(A):</u> A notice of application shall be issued within 14 days after the city has made a determination of completeness pursuant to EMC 18.40.150 for all short plats, and all Process II, III, IV, and V applications; provided: 1. The notice of application shall be provided at least 15 days prior to any required open record public hearing; 2. One (1) notice of application shall be completed for all applications related to the same project at the time of the earliest complete permit application.
36.70B.080 Development regulations—Requirements—Report on implementation costs. *** CHANGES EFFECTIVE JANUARY 1, 2025 ***		
Requirement	Existing Edgewood Code	Proposed Changes and Notes
(1) (a) Development regulations adopted pursuant to RCW 36.70A.040 must establish and implement time periods for local government actions for each type of project permit application and provide timely and predictable procedures to determine whether a completed project permit application meets the requirements of those development regulations. The time periods for local government actions for each type of complete project permit application or project type should not exceed those specified in this section.	N/A	This previously limited the decision to 120 days, but now limits decision deadlines to those specified further down in the section 7. No modification required.
(b) For project permits submitted after January 1, 2025, the development regulations must, for each type of permit application, specify the contents of a completed project permit application necessary for the complete compliance with the time periods and procedures.	N/A	No modification required.
(c) A jurisdiction may exclude certain permit types and timelines for processing project permit applications as provided for in RCW 36.70B.140.	<u>EMC 18.40.070(C):</u> The following permits or approvals are specifically excluded from the procedures set forth in this chapter:	This section allows certain project permits

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	1. Landmark designations. 2. Street vacations. 3. Street use permits. 4. Building permits which are categorically exempt from environmental review under SEPA or that do not require street improvements, boundary line adjustments, or other construction permits, pursuant to RCW 36.70B.140. 5. Administrative approvals which are categorically exempt from environmental review under SEPA, pursuant to Chapter 43.21C RCW and EMC Title 20, SEPA, for which environmental review has been completed in connection with other project permits.	This is currently listed under process types, and stated that they are excluded from all procedures set in this chapter. RCW 36.70.B.080(c) update is specific to timelines. See Pierce County Timeline Exemptions as a possible fix and it might be worth removing EMC 18.40.070(C).
(d) The time periods for local government action to issue a final decision for each type of complete project permit application or project type subject to this chapter should not exceed the following time periods unless modified by the local government pursuant to this section or RCW 36.70B.140: (i) For project permits which do not require public notice under RCW 36.70B.110, a local government must issue a final decision within 65 days of the determination of completeness under RCW 36.70B.070; (ii) For project permits which require public notice under RCW 36.70B.110, a local government must issue a final decision within 100 days of the determination of completeness under RCW 36.70B.070; and (iii) For project permits which require public notice under RCW 36.70B.110 and a public hearing, a local government must issue a final decision within 170 days of the determination of completeness under RCW 36.70B.070.	<u>EMC 18.40.040(D):</u> Except for Process V procedures, all city actions on project permits, including resolution of all local appeals shall be complete within 120 days of determination of a completed application. This 120-day period may be extended for a reasonable period of time at the request of the applicant pursuant to EMC 18.40.150, Determination of completeness	Staff is recommending the following revision: <u>EMC 18.40.040(D):</u> D. All city actions on project permits shall be completed in the time periods established in EMC 18.40.200. Staff is recommending the following new Notice of Decision section: <u>18.40.200 Notice of Decision</u> A. The Decision-Making Body (identified in EMC 18.40.190) shall issue the Notice of Decision within the specified times contained in the Chapter. B. Time periods for final decisions shall be: 1, Process I Applications: 65 days; 2. Process II and III Applications: 100 days; 3. Process IV and V Applications: 170 days C. The number of days an application is in review with the city shall be calculated from the day completeness is determined under EMC 18.40.150 to the date a final decision is issued on the project permit application. If the date of the notice of complete application is different than the date completeness was determined, the date completeness was determined shall prevail. Additionally, minor consistency updates were made through EMC 18.40 to ensure consistency.
(e) A jurisdiction may modify the provisions in (d) of this subsection to add permit types not identified, change the permit names or types in each category, address how consolidated review time periods may be different than permits submitted individually, and provide for how projects of a certain size or type may be	<u>EMC 18.40.040(B):</u> An application that involves two or more procedures shall be processed collectively at the city's sole discretion, under the highest numbered procedure required for any part	Staff is recommending keeping EMC 18.40.040(B) to allow for flexibility but also recommends adding a consolidated permit review process that matches the approved consolidated permit review process provided in Title 15:



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differentiated, including by differentiating between residential and nonresidential permits. Unless otherwise provided for the consolidated review of more than one permit, the time period for a final decision shall be the longest of the permit time periods identified in (d) of this subsection or as amended by a local government.	of the application. Public hearings with other agencies shall be processed according to EMC 18.40.190, Notice of public hearing.	<u>EMC 18.40.070(D):</u> Consolidated Permit Review Process. The applicant may elect to consolidate two or more development related permits for one project action and submit the applications simultaneously. The review process for land use permits for the same site with different process types will follow the higher process decision type. 1. Project Permit Approval Prior to Building Permit Application. i. An applicant who files an application for any project permit prior to the filing of a valid and complete application for a building permit shall be deemed to have specifically acknowledged that the acceptance and processing of such project permit application shall in no way establish or create a vested right to proceed with construction of any proposed project in accordance with the codes, ordinances, or regulations existing at the time of filing of such application, or at any time thereafter, prior to the filing of a valid and complete building permit application. 2. Project Permit Approval Together With Building Permit Application. i. If project permit approval was not obtained prior to building permit application, the building permit approval is subject to obtaining any required project permit approval and shall not be issued until such project permit approval is obtained. ii. An applicant who fails to obtain any required project permit approval prior to submitting a building permit application shall be deemed to have specifically acknowledged that the building permit application may expire prior to a decision on any such project permit application, and that the building permit application is made at the applicant’s own risk.
(f) If a local government does not adopt an ordinance or resolution modifying the provisions in (d) of this subsection, the time periods in (d) of this subsection apply.	N/A	Commerce recommends meeting the timelines provided in subsection (d) because the ordinance would otherwise be



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		appealable and there is no clear guidance what other time periods would be acceptable.
(g) The number of days an application is in review with the county or city shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the project permit application. The number of days shall be calculated by counting every calendar day and excluding the following time periods: (i) Any period between the day that the county or city has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant; (ii) Any period after an applicant informs the local government, in writing, that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the local government, in writing, that they would like to resume the application. A local government may set conditions for the temporary suspension of a permit application; and (iii) Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.	<u>EMC 18.40.040(B):</u> 1. “Day” means calendar day <u>EMC 18.40.150(A):</u> 1. Time Limitations. a. Calculation of Time Periods for Issuance of Notice of Final Decision. In determining the number of calendar days that have elapsed after the city has notified the applicant that the application is complete for purposes of calculating the time for issuance of the notice of decision, the following periods shall be excluded: i. Any period during which the applicant has been requested by the city to correct plans, perform required studies, provide additional required information, or otherwise requires the applicant to act. 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 calendar days after the date the information has been provided to the city; ii. If the city determines that the information submitted by the applicant under EMC 18.40.150, Determination of completeness, is insufficient or incorrect; iii. 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 city and the applicant in writing agree to a time period for completion of an environmental impact statement; iv. Any period for administrative appeals of project permit applications, 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 calendar days for an open record appeal hearing; or (B) Sixty calendar days for a closed record appeal, unless the parties agree to extend these time periods; and 2. Any extension of time mutually agreed upon by the applicant and the local government. 3. The time limits established in this section do not apply if a project permit application: a. Requires an amendment to the comprehensive plan or a development regulation; b. Requires approval of the siting of an essential public facility as provided in RCW 36.70A.200; or c. 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 pursuant to this section.	EMC 18.40.150 is the determination of completeness section and is confusing to see the Notice of Final Decision time limitations in this section. As such, staff is recommending including EMC 18.40.150(A) in the new 18.40.200 Notice of Decision section. <u>EMC 18.40.200(D):</u> The number of days shall be calculated by counting every calendar day and excluding the following time periods: 1. Any period between the day that the city has notified the applicant, in writing, that additional information is required to further process the application and the day when the applicant is notified in writing that the additional information satisfies the request or 14 days after the last required resubmitted information; 2. Any period after an applicant informs the local government, in writing, that they would like to temporarily suspend review of the application, until the time that the applicant notifies the city, in writing, that they would like to resume the application: a. If any request to suspend the application or to resume review is received on a Saturday, Sunday, a day designated by RCW 1.16.050 or by the city’s ordinances as a legal holiday, then the corresponding date shall be calculated from the next business day; b. Any such suspension shall be permitted a maximum of one (1) time for a minimum of 60 days and a maximum of 180 days; and c. If the city does not receive notice to resume review, the application shall lapse; d. If an applicant suspends the review of an application for more than 60 days, and additional 30 days will be added to the time periods for final decision issuance.

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	4. If the city is unable to issue its final decision within the time limits provided in this chapter, 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 a final decision. The city is not liable for damages due to the city's failure to make a final decision within the time limits established in this chapter.	4. Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired.
(h) The time periods for a local government to process a permit shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use, as required by the local government under RCW 36.70B.070.	<u>EMC 18.40.150(A)(1)</u> : c. 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 pursuant to this section.	Staff recommends the following revisions and relocation to EMC 18.40.200(E) <u>EMC 18.40.200(E)</u> : The time periods for the city to process an application shall start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use.
(i) If, at any time, an applicant informs the local government, in writing, that the applicant would like to temporarily suspend the review of the project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the county or city has notified the applicant, in writing, that additional information is required to further process the application, an additional 30 days may be added to the time periods for local government action to issue a final decision for each type of project permit that is subject to this chapter. Any written notice from the local government to the applicant that additional information is required to further process the application must include a notice that nonresponsiveness for 60 consecutive days may result in 30 days being added to the time for review. For the purposes of this subsection, "nonresponsiveness" means that an applicant is not making demonstrable progress on providing additional requested information to the local government, or that there is no ongoing communication from the applicant to the local government on the applicant's ability or willingness to provide the additional information.	N/A	EMC 18.40 currently doesn't allow the applicant to temporarily suspend the review. As such, staff is recommending the following addition to EMC 18.40.200(D) : <u>EMC 18.40.200(D)(2)</u> : Any period after an applicant informs the local government, in writing, that they would like to temporarily suspend review of the application, until the time that the applicant notifies the city, in writing, that they would like to resume the application: a. If any request to suspend the application or to resume review is received on a Saturday, Sunday, a day designated by RCW 1.16.050 or by the city's ordinances as a legal holiday, then the corresponding date shall be calculated from the next business day; b. Any such suspension shall be permitted a maximum of one (1) time for a minimum of 60 days and a maximum of 180 days; and c. If the city does not receive notice to resume review, the application shall lapse; d. If an applicant suspends the review of an application for more than 60 days, and additional 30 days will be added to the time periods for final decision issuance.
(j) Annual amendments to the comprehensive plan are not subject to the requirements of this section.	N/A	Staff recommends the following revision to be added to EMC 18.40.200(D).

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		<u>EMC 18.40.200(D)(5):</u> Annual amends to the comprehensive plan;
(k) A county's or city's adoption of a resolution or ordinance to implement this subsection shall not be subject to appeal under chapter 36.70A RCW unless the resolution or ordinance modifies the time periods provided in (d) of this subsection by providing for a review period of more than 170 days for any project permit.	N/A	As recommended by staff, the city's adoption to implement the above items shall not be subject to appeal under Chapter 36.70A RCW since the time periods of any project permit is limited to 170 days.
(l) (i) When permit time periods provided for in (d) of this subsection, as may be amended by a local government, and as may be extended as provided for in (i) of this subsection, are not met, a portion of the permit fee must be refunded to the applicant as provided in this subsection. A local government may provide for the collection of only 80 percent of a permit fee initially, and for the collection of the remaining balance if the permitting time periods are met. The portion of the fee refunded for missing time periods shall be: (A) 10 percent if the final decision of the project permit application was made after the applicable deadline but the period from the passage of the deadline to the time of issuance of the final decision did not exceed 20 percent of the original time period; or (B) 20 percent if the period from the passage of the deadline to the time of the issuance of the final decision exceeded 20 percent of the original time period. (ii) Except as provided in RCW 36.70B.160, the provisions in subsection (l)(i) of this section are not applicable to cities and counties which have implemented at least three of the options in RCW 36.70B.160(1) (a) through (j) at the time an application is deemed procedurally complete.	N/A	This section provides the refund requirements if the city fails to meet timelines except if the city adopts at least three of the options in RCW 36.70B.160(1) (a) through (j) at the time an application is deemed procedurally complete. Staff has provided the options below. a) Expediting review for project permit applications for projects that are consistent with adopted development regulations; (b) Imposing reasonable fees, consistent with RCW 82.02.020 , on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW. The fees imposed may not include a fee for the cost of processing administrative appeals. Nothing in this subsection limits the ability of a county or city to impose a fee for the processing of administrative appeals as otherwise authorized by law; (c) Entering into an interlocal agreement with another jurisdiction to share permitting staff and resources; (d) Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly; (e) Having new positions budgeted that are contingent on increased permit revenue; (f) Adopting development regulations which only require public hearings for permit applications that are required to have a public hearing by statute; (g) Adopting development regulations which make preapplication meetings optional rather than a requirement of permit application submittal; (h) Adopting development regulations which make housing types an outright permitted use in all zones where the housing type is permitted;

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		(i) Adopting a program to allow for outside professionals with appropriate professional licenses to certify components of applications consistent with their license; or (j) Meeting with the applicant to attempt to resolve outstanding issues during the review process. The meeting must be scheduled within 14 days of a second request for corrections during permit review. If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections. The city currently has on-call permit assistance contracts which is consistent with option d. Additionally, Title 15 has already adopted option j, which staff is recommending its inclusion with the proposed updates to EMC 18.40.160(C). Staff recommends that the city adopt one more of the above-mentioned options, otherwise additional revisions to the fee schedule code and potential refunds of permits fees for project not meeting timelines will be required. As such, staff is requesting input from the planning commission on identifying the 3rd option.
(2)		
(a) Counties subject to the requirements of RCW 36.70A.215 and the cities within those counties that have populations of at least 20,000 must, for each type of permit application, identify the total number of project permit applications for which decisions are issued according to the provisions of this chapter. For each type of project permit application identified, these counties and cities must establish and implement a deadline for issuing a notice of final decision as required by subsection (1) of this section and minimum requirements for applications to be deemed complete under RCW 36.70B.070 as required by subsection (1) of this section.	N/A	City of Edgewood population is less than 20,000 which means that the city is not required to provide annual reports to Washington Department of Commerce. No changes are required at this time.
(b) Counties and cities subject to the requirements of this subsection also must prepare an annual performance report that includes information outlining time periods for certain permit types associated with housing. The report must provide: (i) Permit time periods for certain permit processes in the county or city in relation to those established under this section, including whether the county or city has established shorter time periods than those provided in this section; (ii) The total number of decisions issued during the year for the following permit types: Preliminary subdivisions, final subdivisions, binding site plans, permit	N/A	Not applicable.

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processes associated with the approval of multifamily housing, and construction plan review for each of these permit types when submitted separately; (iii) The total number of decisions for each permit type which included consolidated project permit review, such as concurrent review of a rezone or construction plans; (iv) The average number of days from a submittal to a decision being issued for the project permit types listed in *subsection (2)(a)(ii) of this section. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a decision is issued on the application. The number of days shall be calculated by counting every calendar day; (v) The total number of days each project permit application of a type listed in *subsection (2)(a)(ii) of this section was in review with the county or city. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a final decision is issued on the application. The number of days shall be calculated by counting every calendar day. The days the application is in review with the county or city does not include the time periods in subsection (1)(g)(i)-(iii) [(1)(g)(i) through (iii)] of this section; (vi) The total number of days that were excluded from the time period calculation under subsection (1)(g)(i)-(iii) [(1)(g)(i) through (iii)] of this section for each project permit application of a type listed in *subsection (2)(a)(ii) of this section.		
(c) Counties and cities subject to the requirements of this subsection must: (i) Post the annual performance report through the county's or city's website; and (ii) Submit the annual performance report to the department of commerce by March 1st each year.	N/A	Not applicable.
(d) No later than July 1st each year, the department of commerce shall publish a report which includes the annual performance report data for each county and city subject to the requirements of this subsection and a list of those counties and cities whose time periods are shorter than those provided for in this section. The annual report must also include key metrics and findings from the information collected.	N/A	Not applicable.
(e) The initial annual report required under this subsection must be submitted to the department of commerce by March 1, 2025, and must include information from permitting in 2024.	N/A	Not applicable.
(3) Nothing in this section prohibits a county or city from extending a deadline for issuing a decision for a specific project permit application for any reasonable period of time mutually agreed upon by the applicant and the local government.	<u>EMC 18.40.150(A)</u>: 2. Any extension of time mutually agreed upon by the applicant and the local government.	Staff recommends relocating this code section to EMC 18.40.200(D). <u>EMC 18.40.200(D)</u>: 8. Any extension of time mutually agreed upon by the applicant and the city.



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36.70B.100 Designation of person or entity to receive determinations and notices. *** NO CHANGES ***		
36.70B.110 Notice of application—Required elements—Integration with other review procedures—Administrative appeals *** CHANGES EFFECTIVE JULY 23, 2023 ***		
Requirement	Existing Edgewood Code	Notes
(1) Not later than April 1, 1996, a local government planning under RCW 36.70A.040 shall provide a notice of application to the public and the departments and agencies with jurisdiction as provided in this section. If a local government has made a threshold determination under chapter 43.21C RCW concurrently with the notice of application, the notice of application may be combined with the threshold determination and the scoping notice for a determination of significance. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application. Nothing in this section or this chapter prevents a lead agency, when it is a project proponent or is funding a project, from conducting its review under chapter 43.21C RCW or from allowing appeals of procedural determinations prior to submitting a project permit.		This was a general RCW cleanup revision, no change to code is required.
(2) The notice of application shall be provided within 14 days after the determination of completeness as provided in RCW 36.70B.070 and, except as limited by the provisions of subsection (4)(b) of this section, must include the following in whatever sequence or format the local government deems appropriate: (a) The date of application, the date of the notice of completion for the application, and the date of the notice of application; (b) 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; (c) The identification of other permits not included in the application to the extent known by the local government; (d) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed; (e) A statement of the public comment period, which shall be not less than fourteen nor more than thirty 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. A local government may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit; (f) The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application; (g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in RCW 36.70B.030(2) and 36.70B.040; and		This was a general RCW cleanup revision, no change to code is required.



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(h) Any other information determined appropriate by the local government.		
(3) If an open record predecision hearing is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.		RCW revision didn't change this section, no code change is required.

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(4) A local government shall use reasonable methods to give the notice of application to the public and agencies with jurisdiction and may use its existing notice procedures. A local government may use different types of notice for different categories of project permits or types of project actions. If a local government by resolution or ordinance does not specify its method of public notice, the local government shall use the methods provided for in (a) and (b) of this subsection. Examples of reasonable methods to inform the public are: (a) Posting the property for site-specific proposals; (b) Publishing notice, including at least the project location, description, type of permit(s) required, comment period dates, and location where the notice of application required by subsection (2) of this section and the complete application may be reviewed, in the newspaper of general circulation in the general area where the proposal is located or in a local land use newsletter published by the local government; (c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered; (d) Notifying the news media; (e) Placing notices in appropriate regional or neighborhood newspapers or trade journals; (f) Publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and (g) Mailing to neighboring property owners.		RCW revision didn't change this section, no code change is required.
(5) A notice of application shall not be required for project permits that are categorically exempt under chapter 43.21C RCW, unless an open record predecision hearing is required or an open record appeal hearing is allowed on the project permit decision.		RCW revision didn't change this section, no code change is required.
(6) A local government shall integrate the permit procedures in this section with environmental review under chapter 43.21C RCW as follows: (a) Except for a threshold determination and except as otherwise expressly allowed in this section, the local government may not issue a decision or a recommendation on a project permit until the expiration of the public comment period on the notice of application. (b) If an open record predecision hearing is required, the local government shall issue its threshold determination at least fifteen days prior to the open record predecision hearing. (c) Comments shall be as specific as possible. (d) A local government is not required to provide for administrative appeals of its threshold determination. If provided, an administrative appeal must be filed within fourteen days after notice that the determination has been made and is appealable. Except as otherwise expressly provided in this section, the appeal hearing on a threshold determination must be consolidated with any open record hearing on the project permit.		This was a general RCW cleanup revision, no change to code is required.



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(7) At the request of the applicant, a local government may combine any hearing on a project permit with any hearing that may be held by another local, state, regional, federal, or other agency, if: (a) The hearing is held within the geographic boundary of the local government; and (b) The applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings. All agencies of the state of Washington, including municipal corporations and counties participating in a combined hearing, are hereby authorized to issue joint hearing notices and develop a joint format, select a mutually acceptable hearing body or officer, and take such other actions as may be necessary to hold joint hearings consistent with each of their respective statutory obligations.		RCW revision removed “The joint hearing can be held within the time periods 34 specified in RCW 36.70B.090 or the” from the start of b. No change to code is required.
(8) All state and local agencies shall cooperate to the fullest extent possible with the local government in holding a joint hearing if requested to do so, as long as: (a) The agency is not expressly prohibited by statute from doing so; (b) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and (c) The agency has received the necessary information about the proposed project from the applicant to hold its hearing at the same time as the local government hearing.		RCW revision didn't change this section, no code change is required.
(9) A local government is not required to provide for administrative appeals. If provided, an administrative appeal of the project decision and of any environmental determination issued at the same time as the project decision, shall be filed within fourteen days after the notice of the decision or after other notice that the decision has been made and is appealable. The local government shall extend the appeal period for an additional seven days, if state or local rules adopted pursuant to chapter 43.21C RCW allow public comment on a determination of nonsignificance issued as part of the appealable project permit decision.		RCW revision didn't change this section, no code change is required.
(10) The applicant for a project permit is deemed to be a participant in any comment period, open record hearing, or closed record appeal.		RCW revision didn't change this section, no code change is required.
(11) Each local government planning under RCW 36.70A.040 shall adopt procedures for administrative interpretation of its development regulations.		RCW revision didn't change this section, no code change is required.
36.70B.120 Permit review process. *** NO CHANGES ***		
36.70B.130 Notice of decision—Distribution. *** NO CHANGES ***		
36.70B.140 Project permits that may be excluded from review. *** CHANGES EFFECTIVE JULY 23, 2023 ***		
Requirement	Existing Edgewood Code	Notes
(1) A local government by ordinance or resolution may exclude the following project permits from the provisions of RCW 36.70B.060 through * 36.70B.090 and 36.70B.110 through 36.70B.130: Landmark designations, street vacations, or other approvals relating to the use of public areas or facilities, or other project permits, whether administrative or quasi-judicial, that the local government by ordinance or resolution has determined present special circumstances that warrant a review process <u>or time periods for approval which</u>		RCW revision added underlined portion, no code change is required.

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are different from that provided in RCW 36.70B.060 through * 36.70B.090 and 36.70B.110 through 36.70B.130.		
(2) A local government by ordinance or resolution also may exclude the following project permits from the provisions of RCW 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary adjustments and building and other construction permits, or similar administrative approvals, categorically exempt from environmental review under chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits.		RCW revision didn't change this section, no code change is required.
(3) A local government must exclude project permits for interior alterations from site plan review, provided that the interior alterations do not result in the following: (a) Additional sleeping quarters or bedrooms; (b) Nonconformity with federal emergency management agency substantial improvement thresholds; or (c) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.	<u>EMC 18.95.020(B)(4)</u> Interior alterations, provided that the interior alterations do not result in the following: (a) Additional sleeping quarters or bedrooms; (b) Nonconformity with federal emergency management agency substantial improvement thresholds; or (c) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems. Nothing in this subsection exempts interior alterations from otherwise applicable building, plumbing, mechanical, or electrical codes. For purposes of this subsection, "interior alterations" include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.	Modified to be compliant under Ordinance 23-0647 (effective until 12/31/2024). Need to reiterate this in ordinance.
(4) Nothing in this section exempts interior alterations from otherwise applicable building, plumbing, mechanical, or electrical codes.	<u>EMC 18.95.020(B)(4)</u> (c) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems. Nothing in this subsection exempts interior alterations from otherwise applicable building, plumbing, mechanical, or electrical codes. For purposes of this subsection, "interior alterations" include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.	Modified to be compliant under Ordinance 23-0647 (effective until 12/31/2024). Need to reiterate this in ordinance.
(5) For purposes of this section, "interior alterations" include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.	<u>EMC 18.95.020(B)(4)</u> (c) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems. Nothing in this subsection exempts interior alterations from otherwise applicable building, plumbing, mechanical, or electrical codes. For purposes of this subsection, "interior alterations" include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.3. Any activity on the exterior of a building that does not exceed a 25 percent change in any existing facade or roof form. 4. Interior work that does not alter the exterior of the structure or affect parking standards as determined by the director.	Modified to be compliant under Ordinance 23-0647 (effective until 12/31/2024). Need to reiterate this in ordinance.



Title 36 Revised Code of Washington (RCW)		
Local Project Review RCW 36.70B		
36.70B.150 Local governments not planning under the growth management act may use provisions. *** NOT APPLICABLE ***		
36.70B.160 Additional project review encouraged—Construction. *** CHANGES EFFECTIVE JULY 23, 2023 *** (ESHB 1293 / SB 5290)		
Requirement	Existing Edgewood Code	Notes
ESHB 1293 (1) Each local government is encouraged to adopt further project review provisions to provide prompt, coordinated, and objective review and ensure accountability to applicants and the public, including expedited review for project permit applications for projects that are consistent with adopted development regulations or that include dwelling units that are affordable to low-income or moderate-income households and within the capacity of systemwide infrastructure improvements.	N/A	This is encouraged but not required at this time.
(2) Nothing in this chapter is intended or shall be construed to prevent a local government from requiring a preapplication conference or a public meeting by rule, ordinance, or resolution, where otherwise required by applicable state law.	N/A	No code or process change required.
(3) Each local government shall adopt procedures to monitor and enforce permit decisions and conditions.	N/A	The city currently monitors and enforce permit decision and conditions through electronic permit tracking (SmartGov) . This system allows the city to track permit decisions and conditions throughout the life of the project.
(4) Nothing in this chapter modifies any independent statutory authority for a government agency to appeal a project permit issued by a local government.	N/A	No code or process change required.
(5) For the purposes of this section: (a) A dwelling unit is affordable if it requires payment of monthly housing costs, including utilities other than telephone, of no more than 30 percent of the family's income. (b) "Dwelling unit" means a residential living unit that provides complete independent living facilities for one or more persons and that includes permanent provisions for living, sleeping, eating, cooking, and sanitation, and that is sold or rented separately from other dwelling units. (c) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than 80 percent of the median family income, adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development, or less than 80 percent of the city's median income if the project is located in the city, the city has median income of more than 20 percent above the county median income, and the city has adopted an alternative local median income. (d) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income, adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development, or less than 120 percent of the city's median income if the project is located in the city, the city has median income of more than 20 percent above the county median income, and the city has adopted an alternative local median income.		Understood. This will be addressed with Middle Housing code.

Title 36 Revised Code of Washington (RCW)		
Local Project Review RCW 36.70B		
SB 5290 (1) Each local government is encouraged to adopt further project review and code provisions to provide prompt, coordinated, and objective review and ensure accountability to applicants and the public by: (a) Expediting review for project permit applications for projects that are consistent with adopted development regulations; (b) Imposing reasonable fees, consistent with RCW 82.02.020, on applicants for permits or other governmental approvals to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW. The fees imposed may not include a fee for the cost of processing administrative appeals. Nothing in this subsection limits the ability of a county or city to impose a fee for the processing of administrative appeals as otherwise authorized by law; (c) Entering into an interlocal agreement with another jurisdiction to share permitting staff and resources; (d) Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly; (e) Having new positions budgeted that are contingent on increased permit revenue; (f) Adopting development regulations which only require public hearings for permit applications that are required to have a public hearing by statute; (g) Adopting development regulations which make preapplication meetings optional rather than a requirement of permit application submittal; (h) Adopting development regulations which make housing types an outright permitted use in all zones where the housing type is permitted; (i) Adopting a program to allow for outside professionals with appropriate professional licenses to certify components of applications consistent with their license; or (j) Meeting with the applicant to attempt to resolve outstanding issues during the review process. The meeting must be scheduled within 14 days of a second request for corrections during permit review. If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections.	N/A	Understood.
SB 5290 (2) (a) After January 1, 2026, a county or city must adopt additional measures under subsection (1) of this section at the time of its next comprehensive plan update under RCW 36.70A.130 if it meets the following conditions: (i) The county or city has adopted at least three project review and code provisions under subsection (1) of this section more than five years prior; and (ii) The county or city is not meeting the permitting deadlines established in RCW 36.70B.080 at least half of the time over the period since its most recent comprehensive plan update under RCW 36.70A.130.	N/A	Compliance with this will be required at the time of the next comprehensive Plan update that is after January 1, 2026. As such, the city isn't required to comply with this until 2034.



Title 36 Revised Code of Washington (RCW)		
Local Project Review RCW 36.70B		
(b) A city or county that is required to adopt new measures under (a) of this subsection but fails to do so becomes subject to the provisions of RCW 36.70B.080(1)(I), notwithstanding RCW 36.70B.080(1)(I)(ii).		
(6) (3) [SB 5290] Nothing in this chapter is intended or shall be construed to prevent a local government from requiring a preapplication conference or a public meeting by rule, ordinance, or resolution, where otherwise required by applicable state law. [ESHB 1293]	N/A	N/A
(7) (4) [SB 5290] Each local government shall adopt procedures to monitor and enforce permit decisions and conditions.	N/A	N/A
(8) (5) [SB 5290] Nothing in this chapter modifies any independent statutory authority for a government agency to appeal a project permit issued by a local government.	N/A	N/A
36.70B.170 Development agreements—Authorized. *** NO CHANGES ***		
36.70B.180 Development agreements—Effect. *** NO CHANGES ***		
36.70B.190 Development agreements—Recording—Parties and successors bound. *** NO CHANGES ***		
36.70B.200 Development agreements—Public hearing. *** NO CHANGES ***		
36.70B.210 Development agreements—Authority to impose fees not extended. *** NO CHANGES ***		
36.70B.220 Permit assistance staff. *** NO CHANGES ***		
36.70B.230 Planning regulations—Copies provided to county assessor. *** NO CHANGES ***		



CITY OF EDGEWOOD STAFF REPORT PLANNING COMMISSION AGENDA ITEM

Date: November 6, 2024

Title: General Sewer Plan (GSP) Update

Attachments: [Final Draft – Complete GSP Update](#)
December 12, 2022, Planning Commission Recommendation
DRAFT GSP Update Recommendation

Submitted By: Jeremy Metzler, PE – Community Development Director

Background Information:

All development within the City of Edgewood must provide for adequate sanitary waste disposal. There are typically two methods to achieve compliance with this standard: 1) public sanitary sewer connection, or 2) a private on-site septic system (OSS). The City has recognized the need for a city-wide sewer plan, because without it, holistic infrastructure management is not possible. It is crucial to look at things holistically to avoid inequitable decisions. The updated General Sewer Plan (GSP) will establish clear strategies that achieve environmental, community cultural, and economic equity. The GSP will also enable efficient resource management.

Staff has been working on the GSP Update since August 2019 with the city's consultant, Grey & Osborne, Inc., with the goal of establishing a city-wide plan for sanitary sewer service. The Planning Commission approved a recommendation to the City Council on December 12, 2022, providing seven (7) policy recommendations for inclusion in the GSP final draft. However, as the GSP Update was developed along with the Comprehensive Plan Periodic Update, it became clear that these policy recommendations should be incorporated into the Comprehensive Plan instead. The first four of these policies are included in the current draft of the Comprehensive Plan Update, with the last three being reviewed and incorporated by staff before final presentation to the Planning Commission at the December meeting.

Current Discussion:

Attached for the Planning Commission's consideration is a formal recommendation to the City Council regarding the Final Draft of the GSP Update (linked above). A public hearing was held at last month's Planning Commission meeting, where no public comments were received. There have been no further comments or modifications requested on the final draft as of October 31, 2024, so the linked document has not been modified since its introduction at last month's Planning Commission Meeting. Following tonight's closure of the SEPA public comment period, Ecology is prepared to approve the GSP Update for Council action. More information is available on the project webpage: cityofedgewood.org/424.

Municipal Code revisions needed to enable the GSP Update will be brought to the Planning Commission for consideration following the City Council's action on the GSP Update, and this work is tentatively slated for early 2025.

Staff Recommendation:

Following any further discussion on the matter, the Planning Commission is invited to make a formal recommendation to the City Council on adoption of the GSP Update Final Draft.



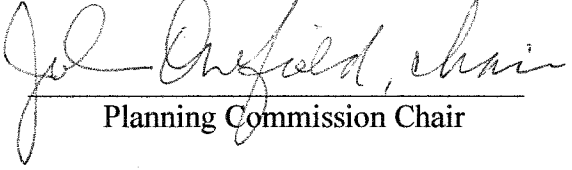
CITY OF EDGEWOOD PLANNING COMMISSION RECOMMENDATION

The Planning Commission voted 6-0 to recommend APPROVAL of the proposed policies pertaining to the City's General Sewer Plan (GSP). It is the recommendation of the City of Edgewood Planning Commission to include the following seven (7) policies in the GSP final draft.

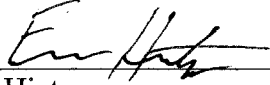
1. Community on-site septic systems should not be permitted anywhere in the city.
2. New individual OSSs should only be allowed on existing lots of record where the nearest parcel boundary is more than 300 horizontal feet from the nearest existing sanitary sewer main.
3. If an existing structure's OSS fails, the OSS may only be repaired if the existing sanitary sewer main is more than 300 horizontal feet away from the subject property. The horizontal distance shall be measured along a straight line from the available connection point to the closest property line. (*Consistent with Pierce County Code 13.04.030(B)(2) and TPCHD standards*)
4. The allowance or prohibition of new individual OSSs in newly proposed subdivisions will follow the requirements outlined below:
 - a. Sewer Extension Requirement: For proposed short and full subdivisions that are no more than three hundred (300) feet from the nearest existing sanitary sewer main, prohibit new individual OSSs and require sanitary sewer extension to serve the subdivision.
 - b. Dry Sewer Requirement: All proposed short and full subdivisions that are exempt from (a), above, shall follow the Dry Sewer Requirements outlined below:
 - i. Require installation of a "dry" sanitary sewer main at the time of the subdivision process.
 - ii. Once the sanitary sewer is extended to the area, the "dry" sanitary sewer main will be connected to the live system, and all existing structures in the subject subdivision must be connected consistent with the Connection Requirement policy #6, above.
5. If a new sanitary sewer main is installed by **a private developer**, and the new sewer is adjacent to property with an existing structure served by an OSS, then the existing structure shall be required to connect to the new sewer:
 - a. prior to any City permit approval that would result in increased use of the existing OSS beyond its currently approved capacity,
 - b. prior to any City permit approval for any reclassification of use for the existing structure (*ex., from residential to non-residential*),
 - c. if the existing OSS requires a repair that requires a permit from the Tacoma-Pierce County Health Department (TPCHD) to maintain its function, or
 - d. if the existing OSS is failing as defined by the Tacoma-Pierce County Health Department (TPCHD).

6. If a new sanitary sewer main is installed by the City, the first step before any work begins is a public noticing and engagement process with affected property owners. The public process and construction effort can take several months, sometimes a year or more, and connections cannot be made until that has been completed. Once the sewer main is deemed ready for connections, the requirement for an adjacent existing structure served by an OSS to connect will follow the process below:
 - i. The existing OSS shall be assigned an age based on the date of the last permitted activity in TPCHD records, such as evidence of a completed installation or repair permit.
 - ii. The existing structure served by said OSS will not be required to connect to the new sanitary sewer main until its age is at least fifteen (15) years.
 - iii. Once the age of said OSS reaches fifteen (15) years, existing structures must connect to the sanitary sewer within 180 days.
 - iv. Regardless of the conditions above, existing structures must connect to sanitary sewer if the conditions listed under Policy #5(a-d), above, are met.
7. The City should prioritize funding for the expansion of sanitary sewer in the following order:
 - a. Areas where road conditions warrant repair and/or replacement
 - b. Areas where other capital improvements are planned or warranted
 - c. Existing neighborhoods with aging OSS's (being more than 20 years old and/or otherwise identified problem areas, such as odor complaints or recent repair activity)
 - d. Other developable areas

**RECOMMENDED BY THE CITY OF EDGEWOOD PLANNING COMMISSION
ON THE 12TH DAY OF DECEMBER 2022.**


Planning Commission Chair

Attest by:


Evan Hietpas
Senior Planner



CITY OF EDGEWOOD
PLANNING COMMISSION
RECOMMENDATION

The Planning Commission voted X-X to recommend that the City Council adopt the General Sewer Plan (GSP) Final Draft as presented, so long as the policy recommendations made by the Planning Commission on December 12, 2022, are incorporated into the Capital Facilities and Utilities Element of the Comprehensive Plan Periodic Update.

RECOMMENDED BY THE CITY OF EDGEWOOD PLANNING COMMISSION
ON THE 6TH DAY OF NOVEMBER 2024.

JoAnn Overfield
Planning Commission Chair

Attest by:

Jeremy Metzler, PE
Community Development Director



CITY OF EDGEWOOD STAFF REPORT PLANNING COMMISSION AGENDA ITEM

Date: November 6, 2024

Title: Comprehensive Plan Periodic Update – Discussion

Attachments: [Edgewood Comprehensive Plan \(cityofedgewood.org\)](https://www.cityofedgewood.org)
Also see <https://www.cityofedgewood.org/434>

Submitted By: Jeremy Metzler, PE – Community Development Director

Background Information:

Comprehensive Plans set the goals and policies that serve as the day-to-day guide for City staff and representatives, including City Council and the Mayor. Edgewood is in the process of planning for its future by performing a periodic update of its Comprehensive Plan. The concept of “growth management” is central to city planning in Washington State. The Growth Management Act (GMA) is a series of state statutes, first adopted in 1990, focused on managing population growth throughout Washington. The Growth Management Act requires cities and counties to update their own Comprehensive Plans to stay current on population growth and other key topics like housing, transportation, parks and recreation, capital facilities, utilities, land use and zoning, economic development, and the environment.

Current Discussion:

A public hearing was held earlier this evening (see previous item). The Planning Commission is scheduled to take formal action on the Comprehensive Plan at their December 9, 2024 regular meeting. This is the Planning Commission’s opportunity to discuss any public input received through the SEPA comment period and public hearing process, suggest changes or modifications to the plan, and provide direction to staff in preparation for final consideration at the next regularly scheduled meeting.



CITY OF EDGEWOOD STAFF REPORT PLANNING COMMISSION AGENDA ITEM

Date: November 6, 2024

Title: SB 5290 Code Updates

Attachments: See Agenda Item 4.b

Submitted By: Jeremy Metzler, PE – Community Development Director
Josh Kubitza, AICP – Planning Manager

Background Information:
Please see Agenda Item 4.b

Current Discussion:
The Planning Commission held a public hearing tonight and has received all public comments. Staff will make any final revisions based on public and Planning Commission feedback and will provide draft amendments at next Planning Commission meeting. The Planning Commission's formal recommendation to the City Council is tentatively scheduled for the December 9, 2024 meeting.

Staff Recommendation:
The Planning Commission is invited to review and discuss the materials provided under Agenda Item 4.b with any additional context provided through public input received at tonight's public hearing.



CITY OF EDGEWOOD STAFF REPORT PLANNING COMMISSION AGENDA ITEM

Date: November 6, 2024

Title: Animals / Livestock

Attachments: Draft EMC 18.20, Definitions Amendments
Draft EMC 18.70, Permitted Land Uses Amendments
Draft EMC 18.100.030, Animals Amendments

Submitted By: Jeremy Metzler, PE – Community Development Director
Morgan Dorner, Senior Planner

Background Information:

On April 9, 2024, the City Council received several public comments regarding livestock and large animals on residentially-zoned properties. To summarize, concerns were expressed about land use code changes in June 2020 that limited residents' ability to have large animals on their property. Those changes were implemented in Edgewood Municipal Code (EMC) under Ordinance 20-0579, which was a broad update of the City's land use table.

Following further research, the City Council continued conversation on this topic at their July 16, 2024 Study Session, and those materials can be found here: [Meeting Overview and Materials](#). In summary:

- There was a focus on removing any slaughterhouse use from the land use table, which led to conversations about family farms and large animal limitations
- [EMC 18.20.090](#) defines "Family Farm", allowable in certain zones pursuant to [EMC 18.70.050](#)
- The provisions of [EMC 18.100.030](#)(B) are in conflict: "No other animals are allowed in residential districts other than pets."
- Staff believes the intent was to allow Family Farm uses pursuant to [EMC 18.70.050](#), in lieu of [EMC 18.100.030](#)
- Staff noted opportunities to add clarifying definitions to EMC 18.20, clarify the intent of several items listed in the Land Use Table in EMC 18.70, and consider adding performance standards to EMC 18.100
- DM Tomyn spoke to Growth Management Act (GMA) requirements and pressure to reduce/remove agricultural uses in cities
- CM Ramirez expressed interest in reviewing Lacey Municipal Code 16.21 (*attached for reference*), seeking assistance from the Pierce Conservation District, and considering portions of Pierce County code

- CM Southard asked about how far the Land Use Table could be "rolled back" and still be compliant with GMA (with others also expressing interest in this later in the meeting)
- CM West asked about what portion of the Land Use Table relating to agriculture is being driven by GMA requirements, and expressed interest in seeing a comparison of agricultural uses between old and current Land Use Tables
- CM Pazaruski noted several items listed in the Land Use Table that could use clarification regarding their intensity, identified that onsite slaughtering of animals raised onsite could use clarification, and noted that some pending Land Use and Zoning Map updates need to be considered

Following the July 16, 2024 study session discussion, public comments were received by email and at the regular meeting on July 23, 2024, summarized as follows:

- Expressing frustration with changes and loss of things that made Edgewood special
- Suggesting regulation that does not arbitrarily limit livestock by numbers or density, but instead allows for flexibility and responsible management
- Seeking preservation of small farms and animals in the community
- Seeking a clear path for allowing livestock in mixed residential low, including clear codes for pigs
- Supporting repeal of Ordinance 20-0579 and preserving Edgewood
- Question about the intent of Ordinance 20-0579, if there is a public concern regarding large animals, and exemptions for family farms larger than 10 acres operating for over 50 years
- Seeking restoration of EMC 18.100.030 to Ordinance 03-203 language, which included clear slaughtering language for farm animals
- Example of a small family farm in Edgewood for four generations, teaching responsibility, and hosting field trips for preschool students, closing by expressing support for updating the code

Planning Commission Meetings

September 9, 2024: Staff introduced this item to the Planning Commission with examples from other jurisdictions with some initial redlines. The commission discussed previous actions and code changes as they relate to animals and a request for clarity regarding regulations for Pet Care Services. See the September 9, 2024 Planning Commission [Meeting Materials](#) and [Recording](#) for additional information.

October 14, 2024: Staff introduced an initial draft of the proposed amendments with a presentation regarding the changes. Based on the input received and further research by staff, the enclosed amendments were prepared for tonight's discussion. Staff spoke with Cities of Sumner, Chehalis, Centralia, and the Washington State Department of Agriculture regarding rule clarification, authority, and performed external code analysis. The proposed amendments are heavily influenced by the Cities of Chehalis and Centralia, both are rural cities located in Lewis County with more frequent animal use activity. Staff also addressed a lack of clarity regarding Pet Care Services, as requested by Commissioner Lenior.

The proposed amendments update the following sections:

- EMC 18.100.030, *Animals* regarding animal uses, allowances, and standards.
- The updates now clearly allow personal and smaller-scale agricultural uses for all zones, subject to minimum standards for health, safety, and welfare of the animals and community.
- Categorizes animals by type (domestic, livestock, exotic, and wildlife animals) and use (Personal, Commercial, Industrial, and Pet Care Services).
- EMC 18.70, *Permitted Land Uses* regarding land uses as they relate to animals for consistency with the proposed amendments to other code sections for this update.
- EMC 18.20, *Definitions* regarding conflicting and unclear definitions regarding animal uses, and additional definitions for domestic, livestock, exotic, and wildlife animals.

Current Discussion:

Based on the feedback from the planning commission at the prior meeting, staff have revised the proposed amendments to address concerns. This included looking at clarity around kennel definitions and uses and home business permits and licensing. Staff revised definitions for “Kennels” under the land use code (Title 18) to only be with regard to animal shelters and dog pounds. All other uses are covered under “Pet Care Services, All Other”. Additional clarification regarding any required permits for Pet Care Services was also added. Staff is looking for feedback and input from the Commission on the revised amendments.

The proposed amendments update the following sections:

- EMC 18.100.030, *Animals* regarding animal uses, allowances, and standards.
 - The updates now clearly allow personal and smaller-scale agricultural uses for all zones, subject to minimum standards for health, safety, and welfare of the animals and community.
 - Categorizes animals by type (domestic, livestock, exotic, and wildlife animals) and use (Personal, Commercial, Industrial, and Pet Care Services).
 - (New) Clarity and standards for pet care services based on zoning.
 - (New) Administrative Use Permit (AUP) required, no longer requires a Home Business permit as previously proposed
 - (New) Addition stating that possession of wildlife animals is prohibited and is regulated under state, federal, and the city’s critical areas code for critical fish and wildlife habitat.
 - (New) Other additional amendments for clarity (shown in blue within attachment).
- EMC 18.70, *Permitted Land Uses* regarding land uses as they relate to animals for consistency with the proposed amendments to other code sections for this update. See below (in order of revision):
 - Remove – Family Farm
 - (New) Revise – Agricultural Sales
 - (New) Add – Crop Production
 - (New) Revise – Crop Production, All Other
 - (New) Revise – Animal Production and Aquaculture
 - (New) Revise – Cattle Feedlots
 - (New) Add – Animal Production, All Other

- (New) Revise – Kennels
- (New) Revise – Veterinary Services
- (New) Revise – Pet Care Services, All Other
- EMC 18.20, *Definitions* regarding conflicting and unclear definitions regarding animal uses, and additional definitions for domestic, livestock, exotic, and wildlife animals. See below (in order of revision):
 - Add – “Animal, domestic”
 - Add – “Animal, exotic”
 - Add – “Animal, livestock”
 - Add – “Animal, wildlife”
 - (New) Remove – “Animal production and aquaculture, all other”
 - (New) Add – “Animal production and aquaculture”
 - (New) Add – “Animal production, all other”
 - (New) Revise – “Cattle feedlots”
 - (New) Add – “Crop production”
 - (New) Revise – “Crop production, all other”
 - Remove – “Family farm”
 - Remove – “Farm animal, small”
 - (New) Revise – “Hog and pig farming”
 - (New) Revise – “Kennels”
 - (New) Revise – “Pet and pet supplies stores”
 - (New) Revise – “Pet care services, all other”
 - (New) Revise – “Veterinary services”

Staff Recommendation:

The Planning Commission is invited to review the proposed amendments and provide feedback to staff. The proposed amendments will be issued for public comment through SEPA, subject to any proposed changes by the Planning Commission at this October meeting.

Also, staff is prepared to schedule a public hearing for the November Meeting, if the Planning Commission is ready to solicit additional public input at this time. Alternatively, this public hearing could be deferred to a later meeting to allow the Planning Commission to further craft and refine the proposed redlined code for the public’s review.

Chapter 18.20 DEFINITIONS

Sections:

- 18.20.010 Purpose.
- 18.20.020 Words not defined, administrative interpretation.
- 18.20.030 Additional definitions.
- 18.20.040 A definitions.
- 18.20.050 B definitions.
- 18.20.060 C definitions.
- 18.20.070 D definitions.
- 18.20.080 E definitions.
- 18.20.090 F definitions.
- 18.20.100 G definitions.
- 18.20.110 H definitions.
- 18.20.120 I definitions.
- 18.20.130 J definitions.
- 18.20.140 K definitions.
- 18.20.150 L definitions.
- 18.20.160 M definitions.
- 18.20.170 N definitions.
- 18.20.180 O definitions.
- 18.20.190 P definitions.
- 18.20.200 Q definitions.
- 18.20.210 R definitions.
- 18.20.220 S definitions.
- 18.20.230 T definitions.
- 18.20.240 U definitions.
- 18.20.250 V definitions.
- 18.20.260 W definitions.
- 18.20.270 X definitions.
- 18.20.280 Y definitions.
- 18.20.290 Z definitions.

18.20.010 Purpose.

The purpose of this chapter is to define words that are used throughout this title. Definitions may also be found in specific sections of this title. (Ord. 20-579 § 1 (Exh. A); Ord. 03-203 § 1).

18.20.020 Words not defined, administrative interpretation.

Refer to EMC 18.50.020(F), Administrative Interpretations. (Ord. 20-579 § 1 (Exh. A); Ord. 03-203 § 1).

18.20.030 Additional definitions.

The definitions contained in this title are generally those listed in this chapter, except for those definitions specified in EMC 18.97.300, Definitions (sign code), EMC 18.100.100, Sexually oriented businesses, and in the North American Industry Classification System.

...

C. North American Industry Classification System (NAICS). NAICS provides definitions for land uses in the city. The NAICS code is available on the city website or can be viewed at City Hall. (Ord. 20-579 § 1 (Exh. A); Ord. 11-359 § 7 (Exh. D); Ord. 03-203 § 1).

18.20.040 A definitions.

...

“Agricultural sales” means agricultural sales of goods produced on individual farms located within the city. This includes vegetable stands and farmers markets. ~~Further described in NAICS 454390.~~

“Animal, domestic” means any/all of the following:

1. Dog (canine) having no genetic portion of exotic animal;
2. Cat (feline) having no genetic portion of exotic animal;
3. Potbellied pig when housed within the residence of the owner;
4. Any animal certified by an approved training facility to perform assistance to a disabled person when housed within the residence of such person;
5. A bird such as a canary, parakeet, cockatiel, cockatoo, parrot, and similar bird which is capable of surviving in a caged environment within a residential structure, and is so caged;
6. Rabbit or hare when housed within the residence of its owner;
7. Carrier pigeon;
8. Hamster, gerbil, white mouse and other rodent which does not carry any disease.

“Animal, exotic”. See Title 6, Animal Control for definition.

“Animal, livestock” means any/all of the following:

1. Cow, bovine;
2. Horse, mule, donkey and other horse hybrid;
3. Sheep, goat, and ram;
4. Pig, hog, and swine;
5. Rabbit and hare when not housed within the residence of its owner;
6. Ostrich, emu, and similar fowl;
7. Llama;
8. Chicken, hen, rooster, duck, goose, swan, and similar poultry;
9. Any other cloven-hoofed animal;
10. Any domestic animal when bred and/or sold for commercial purposes.

“Animal, wildlife” means any animal which is not domestic, exotic or livestock.

~~“Animal production and aquaculture, all other” means uses involving the raising or fattening of animals for the sale of animals or animal products and/or raising aquatic plants and animals in controlled or selected aquatic environments for the sale of aquatic plants, animals, or their products. This excludes raising hogs, pigs, cattle, and fish as specified elsewhere. Further described in NAICS 112 (except 112210, 112112, and 112511).~~

“Animal production and aquaculture” means establishments, such as ranches, farms, primarily engaged in raising, keeping, grazing, breeding, or feeding animals. These animals are kept for the products they produce or for eventual sale. The animals are generally raised in various environments, from total confinement or captivity to feeding on an open range pasture. Further described in NAICS 112 (except 112112, 1122, 112320).

“Animal production, all other” means animal production uses engaged in raising animals and insects, such as ranches and small-scale farms, primarily engaged in keeping, grazing, breeding, or feeding animals. These animals are kept for personal use, the products they produce or for eventual sale. Only permitted as an accessory use to a primary residential use and is subject to the standards and minimum spacing requirements contained in EMC 18.100.030(F).

“Animal slaughtering and processing” means uses that involve slaughtering animals; preparing processed meats and meat byproducts; and rendering and/or refining animal fat, bones, and meat scraps. Further described in NAICS 3116.

...

18.20.050 B definitions.

...

“Barn” means a structure used for the storage of farm products, feed, and for housing farm animals and light farm equipment.

...

“Building” means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or property of any kind.

...

18.20.060 C definitions.

...

“Cattle feedlots” means ~~uses involving establishments primarily engaged in~~ feeding cattle for fattening. Examples include beef cattle feedlots, feed yards and feedlots (except stockyards for transportation). Further described in NAICS 112112.

...

“Commercial activity” means any activity carried out for the purpose of financial gain for an individual or organization, whether profit or nonprofit.

...

“Crop production” means establishments primarily engaged in the raising and harvesting of row crops, field crops, or tree crops on an agricultural or commercial basis, including packing, primary processing,

and storage facilities. This use category does not include the production of marijuana or “Crop production, all other” as defined in this chapter. Further described in NAICS 111.

“Crop production, all other” means uses which involve the raising and harvesting of row crops, field crops, or tree crops on a personal and small-scale agricultural or commercial basis, including small-scale packing, primary processing, and storage facilities such as barns or sheds for gardening equipment and small tractors or other small to medium-sized farming equipment. This use is intended for small-scale crop production such as cooperative gardens, community gardens, farming activities for personal consumption or small-scale retail at local markets and produce stands. This use category does not include the production of marijuana. Further described in NAICS 111.

18.20.090 F definitions.

...

~~“Family farm” means a farm of 10 acres in size or less, with associated raising and harvesting of row crops, field crops or tree crops, as well as the commercial raising, training and boarding of animals and the production of animal products. This definition excludes the processing of agricultural products produced off site or the slaughter of animals raised off site, or the commercial boarding of more than six animals. Further described in NAICS 111.~~

~~“Farm animal, small” means poultry, rabbit, or other similar size and type of animal. Dogs, cats and other house pets are not considered farm animals for the purpose of this title.~~

...

18.20.110 H definitions.

...

“Hog and pig farming” means establishments primarily engaged in ~~uses involving the~~ raising of hogs and pigs, which may include farming activities, such as breeding, farrowing, and the raising of weanling pigs, feeder pigs, or market size hogs. Further described in NAICS 112210.

...

18.20.140 K definitions.

~~“Kennels” means an enclosure or structure in which any combination of six or more dogs, cats, or a combination of either that individually exceed six months of age are kept for breeding, sale, training, boarding, or sporting purposes. Further described in NAICS 812910.~~ “Kennels” means a place where six or more adult dogs or cats or any combination thereof is kept whether by owners of the dogs and cats or by persons providing facilities and care, whether or not for compensation, but not including a veterinary hospital or clinic. An adult dog or cat is one of either sex, altered or unaltered, that has reached the age of six months. Examples include animal shelters and dog pounds. Does not include boarding of pets as a service to pet owners.

...

18.20.190 P definitions.

...

“Pet and pet supplies stores” means places of business primarily engaged in retail sales associated with domestic or livestock ~~small animals and household pets~~. Further described in NAICS 453910.

“Pet care services, all other” ~~establishments primarily engaged in providing pet care services such as boarding, grooming, sitting, and training domestic animals. Examples include pet grooming shops, pet daycare, and pet boarding services. This excludes veterinary services and kennels as defined in this chapter. means places of business primarily engaged in retail services associated with small animals and household pets. This excludes boarding and veterinary services. Examples include pet grooming shops and pet daycare.~~ Further described in NAICS 812910.

...

18.20.250 V definitions.

...

“Veterinary services” means any premises to which animals are brought, or where they are temporarily kept, solely for the purpose of diagnosis or treatment, care, observation, or treatment of any illness or injury to ~~domestic or exotic~~ animals. Further described in NAICS 541940.

...

18.20.290 Z definitions.

...

“Zoos, aquariums, and botanical gardens” means a facility housing and displaying live animals and/or botanical collections, privately owned and operated for a fee or owned and operated by the city, another public agency, or a nonprofit of some other enterprise. Further described in NAICS 71213.

Land Use Table	NAICS Code	Single-Family 2	Single-Family 3	Single-Family 5	Mixed Residential 1	Mixed Residential 2	Mixed Use Residential	Town Center	Commercial	Business Park	Industrial	Public	Notes
Agriculture and Resource (Sector 11-21)													
✓ – Permitted Use CUP – Use may be approved via CUP – Prohibited Use A – Approval Requires AUP	NAICS Code	SF2	SF3	SF5	MR1	MR2	MUR	TC	C	BP	I	P	All Uses Subject to Conditions 1 and 6
Family Farm	111; Special	✓	✓	A	–	–	–	–	–	–	✓	✓	Activities must be performed on parcels larger than two acres in size, unless in the SF2 or SF3 zone
Agricultural Sales	454390, part Special	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Activities permitted in all districts, but require TUP and must comply with 18.50.070
Crop Production													
Crop Production	111, part	A	A	A	A	–	–	–	–	A	A	–	
Marijuana Production	111; Special	–	–	–	–	–	–	–	–	–	–	–	See Condition 2
Crop Production, All Other	111, part	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Animal Production and Aquaculture	Personal animal uses permitted in all zones per EMC 18.100.030.												
Animal Production and Aquaculture	112210, part except 112112, 1122, 112320	✓	CUP	–	–	–	–	–	–	–	✓	CUP	

Hog and Pig Farming	112210	–	–	–	–	–	–	–	–	–	–	–	
Cattle Feedlots	112112	CUP	–	–	–	–	–	–	–	–	CUP	–	
Animal Production, All Other	112 part	✓	✓	✓	✓	A	–	–	–	–	✓	CUP	Only permitted as an accessory use to a primary residential use.
Manufacturing (Sector 31-33)													
✓ – Permitted Use CUP – Use may be approved via CUP – Prohibited Use A – Approval Requires AUP	NAICS Code	SF2	SF3	SF5	MR1	MR2	MUR	TC	C	BP	I	P	All Uses Subject to Condition 1
Animal Slaughtering and Processing	3116	–	–	–	–	–	–	–	–	–	–	–	
Services (Sector 811-812)													
Pet Care Services													
Kennels	812910, part Special	–	–	–	–	–	A	–	A	CUP A	A	CUP	
Veterinary Services	541940	A	A	A	A	A	A ✓	A ✓	✓	✓	A	A	Only permitted in the single family zones and MR-1 as an accessory use to a primary residential use.
Pet Care Services, All Other	812910, part	A	A	A	A	A	✓	✓	✓	✓	A	–	Only permitted in the single family zones and MR-1 as an accessory use to a primary residential use and subject to EMC 18.100.030.

Conditions

(1) Operations shall not disseminate dust, fumes, gas, noxious odor, smoke, glare, or other atmospheric influence beyond the boundaries of the site, property, or parcel on which such use is located.

(2) Subject to regulation and classification by the Washington State Liquor and Cannabis Board, where applicable and must comply with Edgewood City Ordinance Nos. 14-425 and/or 17-502; plus any regulations regarding cannabis in Chapter 69.51A RCW or I-502.

(3) Subject to Washington Utilities and Transportation Commission regulations and the federal Pipeline and Hazardous Materials Safety Administration (PHMSA). As allowed under state or federal regulations, any use(s) or appurtenances subject to local municipal control will require a CUP in all zoning districts.

(4) NAICS Subsector Codes 481-485 and 487 (Air Transportation; Rail Transportation; Water Transportation; Truck Transportation; Transit and Ground Passenger Transportation; and Scenic and Sightseeing Transportation) permitted as services or systems, to include necessary support activities. The physical location of facilities, maintenance grounds, offices, or other structures incidental to the service or system is subject to the use regulations for said structure.

(5) Essential public facilities are subject to EMC 18.50.060, Essential public facilities permit.

(6) Subject to EMC 18.100.030, Animals.

Chapter 18.100

DEVELOPMENT STANDARDS – USE SPECIFIC

Sections:

- 18.100.010 Accessory residential vehicle service and repair standards.
- 18.100.030 Animals.
- 18.100.040 Daycare facilities.
- 18.100.050 *Repealed.*
- 18.100.070 Home business.
- 18.100.080 Limited home businesses.
- 18.100.090 Manufactured homes on individual lots.
- 18.100.100 Sexually oriented businesses.
- 18.100.110 Wireless communications facilities.
- 18.100.120 Marijuana-related uses – Prohibited.

...

18.100.030 Animals.

~~A. Four small farm animals (noncommercial) shall be allowed per legal lot of record. Lots that are one contiguous half acre in size or greater shall be allowed no more than 12 small farm animals per acre. All small farm animals kept outside shall be cooped or kept in hutches or pens or similar enclosures.~~

~~B. No other animals are allowed in residential districts other than pets.~~

A. Purpose and Intent. The purpose of this section is to ensure the health, safety, and welfare of animals and the public are maintained within the City of Edgewood.

B. Applicability. All animals and animal uses within the City of Edgewood shall be regulated by this section, in addition to the development regulations contained in this title, as applicable. Regulations regarding animal control are provided in EMC Title 6, Animal Control. Owners and operators are responsible for obtaining all necessary local health department and state and federal permits, licenses, and approvals.

C. Performance Standards. All animal uses, except for wildlife animals, are subject to EMC 18.90.140, Performance Standards.

D. Animal Uses.

1. Personal. Animals raised, bred, trained, or kept for personal use, enjoyment, and is accessory to a primary land use. Also includes animals raised for a variety of small-scale agricultural purposes, including labor, meat, eggs, milk, fur, leather, and wool for the owner's consumption or small-scale commercial activity. Personal animals are permitted in all zones and may be domestic, livestock, exotic, or wildlife, subject to the standards of this section.

2. Commercial. Animals raised, bred, boarded, fattened, trained, or kept for commercial service, sale, slaughter, or byproduct production for monetary gain or trade. Commercial animal uses are permitted as provided in EMC 18.70, Permitted Land Uses and are subject to the standards of this section.

3. Industrial. Animals processed for byproduct production other similar means for industrial production. Industrial animal uses are permitted as provided in EMC 18.70, Permitted Land Uses and are subject to the standards of this section.

4. Pet Care Services. Includes Pet Care Services, All Other and Veterinary Services as permitted in EMC 18.70 and defined in EMC 18.20.

a. Single family zones and MR-1. Only permitted as an accessory use, subject to the standards contained in this section, development regulations contained in this title, and the following:

i. All related use and activity for all pet care services is limited to a 5% maximum of the total lot area. This is inclusive of all outdoor and indoor areas.

ii. Animals must be kept within the area limits by structure, enclosure, fencing, or other similar containment feature as approved by the director or designee.

iii. The total square footage of all structures associated with the pet care service must be less than any primary or accessory residential dwelling structures combined.

iiiv. All use and activity shall maintain a minimum 25 foot setback from property lines and 50 feet from any neighboring residential structures. Additional setbacks may be required depending on the specific use and site conditions, as determined by the director or designee.

~~iiiiv. A home business permit is required in addition to the~~ An administrative use permit (AUP) and general business license are required by Chapter 5.05 EMC, and more than six (6) animals requires licensing as regulated under Title 6, Animal Control.

b. All other zones. Permitted as provided in EMC 18.70, Permitted Land Uses and subject to the development regulations contained in this title.

i. Additional setbacks and screening may be required depending on the specific use and site conditions, as determined by the director or designee.

E. Animals Permitted. The following animals are permitted within the City of Edgewood, as defined in EMC 18.20 Definitions and regulated under this title, except for exotic animals which are prohibited and subject to compliance under Title 6, Animal Control.

1. “Animal, domestic”
2. “Animal, livestock”
3. “Animal, exotic”
4. “Animal, wildlife”

F. Animal Standards and Minimum Space Requirements. For all animal uses, the minimum space requirements for domestic, livestock, and exotic shall be as followed. These provisions shall not apply to permitted kennels, grooming parlors, or veterinary clinics.

1. Domestic Animals.

a. Dogs are regulated under Title 6, Animal Control for space requirements.

b. Cats are not regulated for space requirements.

c. Potbellied pig: same as subsection (a) of this section, Dogs.

d. Birds are not regulated for space requirements.

e. All other domestic animals: as prescribed by a veterinarian, or qualified study, report or published industry standard, and approved by the director as required for the particular type of animal and circumstance.

f. All domestic animals shall be provided with shelter from excessive temperature and precipitation sufficient to protect the size, type and number of animals.

2. Livestock Animals.

a. Cow/bovine – 10,000 square feet open, fenced area for the first animal, plus 1,000 square feet per additional animal. Does not apply to commercial or industrial animal uses.

b. Horse – 10,000 square feet open, fenced area for the first animal, plus 1,000 square feet per additional animal. Does not apply to commercial or industrial animal uses.

c. Sheep, pig, llama, ostrich, and similar-sized animals – 5,000 square feet open, fenced area for the first animal, plus 500 square feet per additional animal. Does not apply to commercial or industrial animal uses.

d. Other fowl/poultry – Eight (8) square feet per animal within a coop or other enclosed structure plus eight (8) square feet open, fenced area for each animal outside the coop or structure. Does not apply to commercial or industrial animal uses. Roosters are prohibited.

e. Rabbit/hare – Eight (8) square feet per animal within a coop or other enclosed structure plus eight square feet open, fenced area for each animal outside the coop or structure. Does not apply to commercial or industrial animal uses.

f. Honey Beekeeping (Apiary).

i. Minimum lot area: The number of hives shall be limited as follows. ~~Residential-~~
s Structures shall not be included in the minimum lot area calculation and must be set back as per the zoning standards.

Lot Area (Square footage)	# of Hives
6,000 to 10,000	2
10,001 to 20,000	4
20,001 to 43,560 (.46 to 1 acre)	10

The number of hives may not be restricted on parcels of land over one (1) acre in size under the following conditions:

1. During times of the year when there is minimal bee flight or activity (October – March); or
2. The parcel is in a rural or agricultural area; or
3. The hives with bees are being used for agricultural crop pollination; and
4. A public nuisance is not created; and
5. All other requirements of this Chapter are met.

ii. Colonies shall be maintained in small movable frame hives, unless exempted by the Washington State Department of Agriculture as an educational exhibit.

iii. Apiaries shall be managed and kept in a clean and orderly condition, and adequate space shall be maintained in the hives to prevent overcrowding and swarming.

iv. Colonies shall be requeened with a young hybrid queen annually, or as often as necessary to prevent swarming or aggressive behavior.

v. All colonies shall be registered with the Washington State Department of Agriculture in accordance with apiary law, Chapter 15.60 RCW. This section is intended to be supplemental to the procedures in Chapter 15.60 RCW, and in case of any conflict Chapter 15.60 RCW shall govern.

vi. Hives shall not be located within 25 feet of any property line, except when there is a solid fence at least 6 feet high separating the hive from the property line, extending at least 20 feet from the hive along the property line in both directions, the hives can be within 10 feet.

vii. Hives are prohibited between the primary street frontage and the residence.

viii. Bees living in trees, buildings or any other space (except in movable frame hives), abandoned colonies or diseased bees shall constitute a public nuisance and shall be removed.

ix. An apiary(s) shall be marked in full compliance with WAC 16-602-040.

x. It shall be the duty of any person having honey bees on his or her property to prevent diseased hives as defined in RCW 15.60.005(13) and (16).

xi. A consistent source of water shall be provided as appropriate at the apiary. This requirement is intended to discourage bee visitation at swimming pools, hose bibs, animal watering sources, bird baths, or where people congregate.

g. All other livestock – As prescribed by a licensed veterinarian or published industry standard and approved by the director for the specific type and number of animals and the specific circumstance.

h. No livestock fence shall be located:

i. Within any front/street setback area established and/or required by EMC Title 18, Development Standards, unless it is a Personal Animal Use;

1. Legal nonconforming livestock fences constructed prior to January 1, 2025 are regulated under EMC 18.90.110, Nonconformities and may be maintained or replaced. All other fencing is regulated under EMC 18.90.060 Fences, bulkheads, and retaining walls.

ii. Within 50 feet of any residential structure which is not the residence of the person owning, maintaining or keeping livestock; or

iii. Within any wetlands and their buffers, as regulated under EMC Title 14, Critical Areas.

i. All livestock animals shall be provided with shelter from excessive temperature and precipitation sufficient to protect the size, type, and number of animals.

j. Shelters less than 120 total square feet for fowl/poultry and rabbit/hares may be located within five (5) feet of rear and side property lines. Chicken shelters shall be maintained so that odors are not detectable at or beyond the property line. Fencing shall be required around chicken area.

i. Roosters are prohibited.

k. Shelters for other livestock animals, except honey beekeeping, shall be at least 50 feet from the side lot of adjoining lots and 100 feet from any public street. Adjoining lot owners may locate the shelters 25 feet from their common lot line, provided they each desire to provide a shelter to house one or more of the above described animals. This regulation shall not be construed to permit the keeping of animals in any place or manner which will endanger public health or safety;

3. Exotic Animals. Exotic animals are prohibited and subject to compliance with Title 6, Animal Control.

a. Venomous species of snakes capable of inflicting serious physical harm or death to human beings;

b. Nonhuman primates and prosimians;

c. Bears;

d. Nondomesticated species of felines;

e. Nondomesticated species of canines and their hybrids, including wolf and coyote hybrids;

f. The order Crocodilia, including alligators, crocodiles, caimans and gavials.

g. Any other exotic animal as identified by state law.

4. Wildlife Animals. Possession of any wild animal which naturally lives in Washington State (ie., squirrels, crows) is prohibited unless you are transporting the animal to a licensed wildlife rehabilitator. Wildlife animals are regulated under state and federal law, and EMC Title 14.50, Critical Fish and Wildlife Habitat Areas as applicable.

(Ord. 20-579 § 7 (Exh. F); Ord. 03-203 § 1).



CITY OF EDGEWOOD STAFF REPORT PLANNING COMMISSION AGENDA ITEM

Date: November 6, 2024

Title: House Bill 1181 Climate Planning

Attachments: Exhibit A – 2023-2025 Climate Planning Grant Scope of Work
Exhibit B – Draft Request for Proposal – 2025 Climate Planning

Submitted By: Jeremy Metzler, PE – Community Development Director
Josh Kubitz, AICP – Planning Manager

Background Information:

In the 2023 Regular Session, the 68th Legislature passed Second Substitute House Bill 1181 (HB 1181), which made various amendments to Revised Code of Washington (RCW) Chapter 36.70A, Growth Management. This is the state law that requires counties and cities to develop comprehensive plans, establishes the required elements, and requires periodic updates to the plan every 10-years.

HB 1181 is intended to improve the state's climate response through updates to the state's planning framework. The following are the key changes to RCW 36.70A:

- Adding a Climate Change and Resiliency goal,
- Adding a Shorelines of the State goal,
- Adding the requirements for a greenhouse gas (GHG) emission reduction subelement,
- Adding green space (urban forestry) to the Open Space and Recreation Goal,
- Adding the requirements to including the participation of vulnerable populations and overburdened communities in public participation.
- Directing Department of Commerce to provide associated guidance, model elements, and grant funding.
- Setting the deadline for Pierce County cities to adopt the new elements and GHG reduction subelement by June 30, 2029.

A copy of HB 1181 is provided here: [1181-S2.SL.pdf](#)

<https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/House/1181-S2.SL.pdf?q=20230615091639>

The Washington State Department of Commerce requested that cities apply for grant funding in 2023 to start the planning process with additional funds planned between 2025 and 2029. The City applied for and was awarded \$105,000 to start the climate planning process. City Council authorized the Mayor to execute this Department of Commerce Grant with Resolution 24-0713.

Current Discussion:

As a requirement of the Department of Commerce climate planning grant, the city is required to complete a public participation plan, conduct a draft climate assessment, and prepare a Comprehensive Plan gap analysis by June 15, 2025 (Exhibit A). As part of the grant application, the scope of work includes publication of a Request for Proposals (RFP) for consulting services to assist city staff. A draft RFP (Exhibit B) has been provided to solicit any comments from the Planning Commission prior to issuing the RFP on November 11,

Staff Recommendation:

The Planning Commission is invited to review the proposed RFP and provide feedback to staff. The RFP is tentatively scheduled to be published on November 10, 2024.



Attachment A: Scope of Work

Actions/Steps / Deliverables	Description	Start Date	End Date
Action 1	Establish a Public Participation Process	November 2024	June 2025
Step 1.1	Develop a public participation plan.	November 2024	January 2025
Step 1.2	Conduct initial public outreach efforts.	March 2025	June 2025
Deliverable 1	Public Participation Plan		June 15, 2025
Actions 2 and 3	Conduct <u>Draft</u> Climate Assessment and Gap Analysis	November 2024	June 2025
Step 2.1	Publish a Request for Proposal (RFP) for consulting services to complete a climate assessment and hire the preferred consultant.	November 2024	December 2024
Step 2.2	Evaluate climate conditions, vulnerabilities, and key indicators, including greenhouse gas emissions, vehicle miles traveled, building and operations energy usage, tree canopy coverage, flooding risks, urban heat island, wildland urban interface, sea-level rise/migratory impacts, wildlife habitat areas, existing EV infrastructure, and food production.	January 2025	June 2025
Step 2.3	Develop Draft Assessment for Public Review	January 2025	June 2025
Deliverable 2.A	<u>Draft</u> Climate Assessment and Recommendations		June 15, 2025
Step 3.1	Perform an audit of existing Comprehensive Plan goals and policies.	January 2025	June 2025
Step 3.2	Conduct a gap analysis for the implementation of HB 1181.	January 2025	June 2025
Deliverable 3.A	<u>Draft</u> HB 1181 Gap Analysis Matrix and Comprehensive Plan Audit Report		June 15, 2025



Attachment B: Budget

Grant Objective:	Commerce Funds
Deliverable 1. - Public Participation Plan	\$5,000
Deliverable 2.A. - Draft Climate Assessment and Recommendations	\$75,000
Deliverable 3.A. - HB 1181 Gap Analysis Matrix and Comprehensive Plan Audit	\$25,000
Contract Total:	\$105,000



Climate Assessment and Gap Analysis Request for Proposals (RFP)

City of Edgewood ■ 2224 104th Ave East ■ Edgewood, Washington 98372-1513 ■ 253-952-3299

SECTION I. INTRODUCTION

A. Purpose

The City of Edgewood ("City") is requesting proposals from qualified professional consulting firms licensed under the laws of the State of Washington who wish to assist the City with preparing a HB1181 climate assessment and Comprehensive Plan gap analysis.

It is the City's intent to select a consultant based on relevant experience and qualifications, proposed fee, and the ability to perform the necessary work and assigned tasks within the timeframe specified. Once the City has reviewed the proposals, one or more firms may be asked to provide additional information and/or participate in an interview process.

The selected consultant will be expected to work with the City as a partner, working with City staff as directed. Work under this contract will be performed under a specific scope, budget, and schedule to be negotiated during the selection process. Any contract executed pursuant to this Request for Proposals (RFP) is expected to run through June 2025 and shall be substantially in the form attached herewith.

This RFP is for the draft Climate Assessment and Comprehensive Plan Gap Analysis described herein, which is due no later than June 15, 2025. The final assessment and gap analysis, Greenhouse Gas (GHG) emission reduction plan, any Comprehensive Plan revisions, and associated public involvement assistance to comply with HB 1181 is planned in the subsequent years. The City may publish a separate RFP for future work, but the City reserves the right to retain the services of the successful firm for said future work.

B. Community Profile and Average Case Volume

Located approximately 30 miles south of Seattle, the City of Edgewood is one of the largest cities in Pierce County, WA, with approximately 14,000 residents as of 2024 Office of Financial management estimates. Edgewood is also one of the fastest growing and newest cities in the region, having incorporated in 1996. Portions of the city are located within the boundaries of the Puyallup Indian Reservation, and we count Fife, Federal Way, Milton, Pacific, Puyallup, Sumner, and portions of unincorporated Pierce and King counties as our neighbors.



Climate Assessment and Gap Analysis Request for Proposal (RFP)

City of Edgewood ■ 2224 104th Ave East ■ Edgewood, Washington 98372-1513 ■ 253-952-3299

The City has been working on the Comprehensive Plan period update since 2023 and plans on adopting the updated plan by the end of 2024. The City has strived to build in climate-related goals consistent with HB 1181 throughout the update process.

SECTION II. RFP SCHEDULE

The anticipated selection process timeline is shown below:

Issue RFP:	November 10, 2024
Deadline for Submittals:	3:00 PM on December 6, 2023
Preliminary Selection of Consultants to Interview (if applicable)	December 10, 2024
Consultant Interviews	December 12 to 13, 2024
Begin Negotiations with Chosen Consultant	December 16, 2024
Initial Council Consideration of Contract:	January 7, 2025
Council Authorization to Execute Agreements with Consultant	January 14, 2025

SECTION III. SCOPE OF SERVICES

The selected consulting firm must be capable and proficient in completing the tasks with sufficient time to submit the associate grant deliverable by June 15, 2025.

- Review and comment on the City's draft Public Participation Process Plan.
- Assist staff in crafting a public participation survey.
- Provide a draft Climate Assessment consistent with Washington Department of Commerce Climate Element Planning Guidance.
- Provide a HB 1181 Gap Analysis Matrix and Comprehensive Plan Audit Report consistent with Washington Department of Commerce Climate Element Planning Guidance.
- Assist Staff in preparing public information materials for website and general distribution.
- Attend one Planning Commission and City Council meeting to provide draft findings.
- Attend one public open house and assist in preparing meeting materials.

SECTION IV. INSTRUCTIONS FOR PROPOSALS

A. Requested Submittal Information – Maximum 10 Pages total.

Consultants are encouraged to submit concise and clear responses to this RFP. The proposal shall be submitted electronically via email. All pages shall be formatted to print on standard, letter paper (8.5 x 11-inches). The content of the submittal shall include:

1. Project Team Name and Contact Information

The names and resumes of individuals who will be working on the proposed services, including any proposed sub-consultants, and their areas of individual expertise and responsibility.

2. Project Team Experience Narrative

Briefly detail the team's knowledge and/or experience in completing the scope of services, general project management experience, and a list of successful projects that were on budget and on time. Include three relevant past project experiences of the firm/team with three references (within the last 10 years), including entity name, contact person with email and telephone number. Municipal references preferred.

3. Familiarity with City of Edgewood Narrative

Describe the project team's familiarity and knowledge of City of Edgewood Comprehensive Plan, other adopted plans and policies, and the City of Edgewood community.

4. Method and Approach

Describe your approach and draft schedule to complete the scope of services not later than June 15, 2025.

5. Fee Proposal

Detailed estimate and overall cost.

B. Submittal Deadline

One (1) electronic copy of the RFP must be received by **December 6, 2023, at 3:00 PM**. No faxed or hard copies will be accepted. It is the responsibility of the applicant to ensure the complete RFP arrives on time and to the correct location. Any RFP received after the scheduled closing time shall be returned and noted as "rejected" by the City Clerk.



Climate Assessment and Gap Analysis Request for Proposal (RFP)

City of Edgewood ■ 2224 104th Ave East ■ Edgewood, Washington 98372-1513 ■ 253-952-3299

C. Electronically Submit To:

City of Edgewood

Attn: Jill Schwerzler-Herrera, Deputy City Clerk

RE: Hearing Examiner RFP

Email: jill@cityofedgewood.org

SECTION V. SELECTION CRITERIA

The City may, in its sole discretion, conduct interviews to further review the qualifications and proposal of any individual. The City will use the following criteria in its final selection of a consultant:

Criteria	Points (100 total)
Experience and background in HB1181, Climate Change Assessments, and Comprehensive Planning	25
Understanding of the request and general approach to the proposed work	15
Overall professional experience and availability of consultant team assigned to project	15
Demonstrate timely and efficient project management that were delivered on budget and on time	15
Familiarity and knowledge of the Edgewood Municipal Code and all other applicable adopted codes and policies	15
References and similar project experience	10
Presentation of qualifications	5

SECTION VI. TERMS AND CONDITIONS

- The City reserves the right to reject any and all proposals, and to determine and waive minor irregularities in any proposal.
- The City reserves the right to request clarification of information submitted and to request additional information from any proposer.
- The City of Edgewood will not pay any cost incurred by any consultant resulting from preparation, submittal, or presentation of a proposal in response to this RFP.
- The City reserves the right to modify or cancel (in whole or in part) this RFP, reject any and all proposals, and waive minor irregularities in any proposal.

Climate Assessment and Gap Analysis Request for Proposal (RFP)

City of Edgewood ■ 2224 104th Ave East ■ Edgewood, Washington 98372-1513 ■ 253-952-3299

- The successful consultant will be required to execute a contract with the City, in substantially the same form as in Attachment A, or as otherwise approved by the City Council, subject to review and recommendation by the City Attorney.
- The City reserves the right to award any contract to the next, most qualified consultant, if the successful consultant does not execute a contract within thirty (30) days after the award of the proposal.
- The selection of consultant shall be made based upon the City's opinion of the professional qualifications of the applicant and availability for hearings.
- In submitting qualifications, the respondent agrees to comply with all applicable Federal, State, and City of Edgewood laws in the conduct of work specified herein. The consultant selected to work on this project will be required to obtain a City of Edgewood business license.
- All proposals will become the property of the City, and are subject to the disclosure provisions under the Public Records Act, Chapter 42.56 RCW.
- The selection will be made without regard to race, color, sex, age, religion, national origin, or political affiliation.



CITY OF EDGEWOOD STAFF REPORT PLANNING COMMISSION AGENDA ITEM

Date: November 6, 2024

Title: Non-Conforming Uses and Lawful Establishment Date

Attachments: Draft EMC Title 18 Redlines

Submitted By: Jeremy Metzler, PE – Community Development Director

Background Information:

When evaluating any use for non-conforming status, an applicant / proponent must prove that the use was lawfully established and existing prior to the effective date of the applicable regulation. There are some ongoing uses within the City of Edgewood that were established prior to our incorporation on February 28, 1996, and researching back beyond that date has proven in several cases to be challenging at best. In an effort to improve efficiencies, staff is interested in limiting any need for research beyond the City's date of incorporation. This might be accomplished by establishing a date in the municipal code before which the use in question is considered to be "self-evident", or in other words, the exact date of existence does not need to be proven if established prior to said specific date.

For reference, in Washington State, a landowner must satisfy the following three key elements to prove that a use was lawfully established or lawfully existing:

- The use must have existed prior to the enactment of a zoning ordinance that contradicts the use.
- The use must have been lawful at the time it was established.
- The landowner must not have abandoned or discontinued the use for over a year prior to the relevant change in the zoning code.

There are two additional scenarios to consider based on relevant case law:

- Clearly state that any trespass or encroachment would not qualify as "legally established", and
- Provide a clear process for how an applicant / property owner can prove continual use as simply as possible.

The City Council held an initial conversation on this topic at their July 16, 2024 study session, which can be viewed here: <https://vimeo.com/985745206> (starting at 1hr 16min). The discussion touched on some potential and experienced scenarios, determining which date to use, and resulted with interest in moving this forward using the City's date of incorporation.

Current Discussion:

As this would require a modification to the City's development regulation code, the matter is being introduced to the Planning Commission this evening for discussion and consideration. Staff has prepared the attached draft code redlines for review and discussion before a potential recommendation to the City Council at a future meeting.

Staff Recommendation:

Hold an initial discussion on the matter and provide feedback on the attached draft materials to staff ahead of the next Planning Commission meeting and formal recommendation to the City Council.

Draft Code Redlines
Edgewood Municipal Code (EMC) Title 18
Non-Conforming Uses and Lawful Establishment Date

18.20.170 N Definitions.

...

“Nonconforming lot” means a lot which does not conform to the design or density requirements of the zoning district in which it is located. A nonconforming lot is a lot that was legal when it was created (see EMC 16.01.040(D) for criteria), but no longer meets the current area, width, or depth dimensional requirements for the zoning district in which the property is located. Nonconforming lots may be occupied by any permitted use in the district; provided, that all other development regulations in effect at the time of development are met.

“Nonconforming structure” is one which was lawfully erected in conformance with the regulations in effect at the time of its construction, but which no longer conforms to current development standards including, but not limited to, design, height, setback or coverage requirements of the zoning district in which it is located.

“Nonconforming use” means the use of land, a building or a structure lawfully existing prior to the effective date of this title or subsequent amendments thereto, which does not conform with the regulations of the district in which it is located.

“Nonconformity” means any land use, structure, lot or sign that is proven to have existed legally established prior to the effective date of this title or subsequent amendment, on or before February 28, 1996, that was not a criminal use at the time or currently, or that was legally established after February 28, 1996 and prior to the effective date of this title or subsequent amendment, which that is no longer permitted by or in full compliance with the regulations of this title.

...

18.90.110 Nonconformities.

...

- I. The burden of demonstrating that nonconformity existed on or before February 28, 1996, or is otherwise lawful under this title, rests with the property or business owner. The exact date need not be proven, only that the nonconformity existed on or before February 28, 1996. Additionally, the nonconformity must not have been criminal at the time under City, State, or Federal law, nor can it be criminal under current law. Some examples of evidence that may indicate legal nonconforming status include: tax assessment records, construction or other permit records, personal or business income tax records, business license records, dated past advertising, dated business receipts to customers, dated rent receipts, affidavits from neighbors or tenants, testamentary documents, photographs whose date may be clearly ascertained, and other such information which is competent and factual. The city may, at its discretion, request such records from a property or business owner as a basis for determining whether nonconformity was legally established and preexisting.
- J. Termination of Nonconforming Status.

1. A nonconforming development or use shall terminate under the following conditions:
 - a. When the use has been vacated or abandoned for a period of ~~six~~ twelve (12) or more months.
 - b. When the structure, which is nonconforming, has been damaged or destroyed to an extent exceeding 50 percent or more of its fair market value as indicated by the records of the Pierce County assessor.
2. Provided, that damaged uses that are allowed to reestablish, as provided in subsection (K) of this section, Damage or Destruction, shall not be considered to be terminated. Once terminated, the use shall not be reestablished, and any subsequent use must comply with the regulations of the zoning district in which it is located.

...

N. The community development director or designee is hereby empowered to prohibit or condition any nonconforming use that poses a risk to public health, safety, or the environment, even if the use existed prior to February 28, 1996. The director or designee may also impose conditions to remediate or mitigate any such risks to ensure compliance with current standards.

...

18.100.070 Home business.

- ...
- H. An ongoing home business may be granted nonconforming status; provided, that it was previously permitted ~~under Pierce County authority prior to Edgewood's incorporation~~ and has been in continuous operation since initial approval. The burden of providing a home business's nonconforming status rests with the property owner or tenant, pursuant to EMC 18.90.110. A home business ~~without city or county approval~~ which cannot prove nonconforming status shall be considered in violation of this section and shall cease until the appropriate approvals have been granted.

18.100.080 Limited home business.

- ...
- H. An ongoing home business may be granted nonconforming status; provided, that it was previously permitted ~~under Pierce County authority prior to Edgewood's incorporation~~ and has been in continuous operation since initial approval. The burden of providing a home business's nonconforming status rests with the property owner or tenant, pursuant to EMC 18.90.110. A home business ~~without city or county approval~~, which cannot prove nonconforming status, shall be considered in violation of this section and shall cease until the appropriate approvals have been granted.