

CITY OF STANWOOD
Stanwood, Washington

ORDINANCE NO. 1316

**AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON,
RELATING TO ADMINISTRATIVE PROCEDURES AMENDING
STANWOOD MUNICIPAL CODE (SMC) TITLE 2
ADMINISTRATION AND PERSONNEL BY ADDING SECTION 2.21
PLANNING COMMISSION, AND AMENDING TITLE 17 ZONING;
SECTION 17.80.010 PLANNING COMMISSION, SECTION
17.80.090 APPEALS, SECTION 17.80.130, TABLE OF LAND USE
PROCEDURES, CHAPTER 17.85 PUBLIC HEARINGS, CHAPTER
17.155 AMENDMENTS, CHAPTER 17.158 ANNEXATION**

WHEREAS, the Stanwood City Council referred a work program to the Planning Commission for review on March 22, 2012; and

WHEREAS, the Planning Commission held a pre-application meeting to consider proposed changes to administrative procedures on March 26, 2012; and

WHEREAS, the Community Development Department filed Application LZCA 12-04 on March 27, 2012; and

WHEREAS, on April 9, 2012, a public hearing was held by the Planning Commission regarding Application LZCA 12-04, and all persons wishing to provide public input concerning the docketed requests were heard; and

WHEREAS, public notice of the above-referenced public hearing were provided in accordance with and as required by law; and

WHEREAS, the Planning Commission made a recommendation regarding Application LZCA 12-04 to the City Council on April 9, 2012; and

WHEREAS, the City Council met June 14, 2012 to consider the Planning Commission's recommendation on the proposed zoning text amendments; and

WHEREAS, pursuant to RCW 36.70A.106, the City has notified the Washington State Department of Commerce of the City's intent to adopt the proposed change in regulations; and

WHEREAS, the City desires to update its development regulations to provide efficient administrative procedures

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. The Findings of Fact and Conclusions attached hereto as Attachment 2 are hereby incorporated by this reference.

SECTION 2. SMC Title 2 Title 2 Administration and Personnel is hereby amended by adding Chapter 2.12 Planning Commission, to read as follows:

(1) Planning Commission. Pursuant to Chapter 35A.63 RCW, there is hereby established a planning commission comprised of seven members appointed by the mayor and confirmed by the city council. At least five members of the planning commission shall reside within the corporate limits of the city of Stanwood. Two members of the Commission may be residents of either the urban growth area, or individuals representing a Stanwood business or Stanwood area community based non-profit organization that has a location in the City.

(2) Term of Office. Members of the commission shall serve a term of five years and may be re-appointed for additional five-year terms by the mayor with approval of the city council.

(3) Conflict of Interest. No member shall sit on the commission or vote when the commission discusses an application that the commission member or the commission member's immediate family, business partner, employer, employee, lessor, lessee, corporate officer, consultant, or an individual or corporation that has a financial relationship with, has ownership, an interest, or has business transactions currently or has had during the previous one year. Such a conflict of interest will administratively render the application as being withdrawn and the applicant shall be required to resubmit a new application.

(4) Removal from Office. After a public hearing (or waiver thereof), any member of the planning commission may be removed by the mayor with the approval of the city council for neglect of duty or malfeasance in office. Prior to any such action, however, written notice shall be given to the member involved at least 10 working days in advance of the anticipated hearing date. The notice shall state that removal is being contemplated, indicate the grounds for which such action is based, and advise the member that a public

hearing has been set before city council. No member shall be removed until such hearing (or waiver thereof by the member) has been held.

(5) Reimbursable Expenses. Each member of the planning commission shall be entitled to reimbursement for personal expenses in the same manner as the city council.

(6) Organization. The commission shall organize itself by electing a chairperson and vice-chairperson, and shall be provided with a secretary hired by the city.

(7) Meetings. The commission shall designate the time and place for a regular monthly meeting. If there is no business to be transacted by the planning commission in any month, the meeting may be canceled. No action requiring a vote shall be taken unless a quorum is present.

(8) Powers and Duties. The planning commission shall advise the mayor and council in matters concerning the comprehensive land use and development of the city and its environs, hold public meetings and hearings when called for by this code when requested by the city council, and provide the council with copies of all minutes of each session of the commission. The commission shall prepare and submit to the city council for adoption any additional plans and undertake any plans and studies assigned by the city council to better accomplish the objectives, intent, purpose, scope, goals, and policies of this code. The commission shall also perform other duties as assigned by city council.

(9) Rules of Procedure. The planning commission shall be authorized to adopt any lawful rule of procedure pursuant to SMC 2.44.270. (Ord. 1249 §§ 5, 6, 2009; Ord. 1110 § 3, 2002; Ord. 963 §§ 1 – 9, 1996; Ord 447 §§ 4, 8, 9, 1975).

SECTION 3. SMC 17.80 Administration, Section 17.80.010 Planning Commission is hereby deleted in its entirety.

SECTION 4. SMC 17.80.090 Appeals of permit decisions is hereby amended to read as follows:

Any appeal as provided by SMC 17.80.130, combined with the appeal of any environmental determinations, shall be filed within 7 days for Type I procedures and 14 days for Type II, Type III, Type V and-Type V procedures. The appeal

period shall run from the publication date after the notice of decision or after other notice that the decision has been made. The city shall extend the appeal period for an additional seven days, if when the city allows public comment on a determination of nonsignificance issued as part of the appealable Type 1 project permit decision.

(1) Procedure on Appeals.

(a) Appeals shall be in writing on a form provided by the City.

(b) Appeals shall be delivered to the city clerk by 5:00 p.m. of the last day of the appeal period.

(c) Appeals may be sent by mail if the appeal is postmarked by 5:00 p.m. of the last day of the appeal period.

(d) The city, after having been duly notified that an appeal has been filed, shall give public notice of a public hearing, ~~or of a meeting in the case of a closed record appeal,~~ as required by Chapter 1.08 SMC. Such public notice shall be in the same form and shall have the same filing date requirements as prescribed in Chapter 17.85 SMC.

(e) The city shall also serve persons notice of such hearing who own property within 300 feet of the subject property, the applicant for the development permit, the aggrieved person (if different than the applicant), any person who has requested in writing to be notified of such public hearing date, the community development director, ~~and the planning commission.~~

(2) Party of Record. Only a party of record as defined by Chapter 17.20 SMC shall have standing to bring an appeal forward per SMC 17.80.130.

(3) Effect of Filing on Appeal. The filing of a notice of appeal shall stay any proceedings in furtherance of the action appealed, unless the community development director certifies in writing to the hearing body and the applicant that a stay poses an imminent peril to life or property, in which case the stay shall not stay further proceedings. The hearing body may review such certification and grant or deny a stay of the proceedings.

(4) Public Hearing. When provided by SMC 17.80.130, a public hearing on an appeal shall be held within 30 working days after the appeal is filed with the city clerk pursuant to subsection (1) of this section, and an action shall be taken by the hearing body within 15 working days after the conclusion of such public hearing. The hearing body may reverse, affirm or modify the decision, determination or interpretation appealed and in so modifying shall be deemed to have all of the powers of the community development director or hearing examiner, from whichever the appeal is taken, including the power to impose reasonable conditions to be complied with by the applicant. The city shall notify the applicant for the permit, the person or persons who filed the appeal, and any parties of record of its decision by certified mail. Such notice shall be mailed by first class mail, postage pre-paid, within five working days of the hearing body's action.

(5) Closed Record Appeals. Any administrative appeal of a decision which required a pre-decision public hearing shall be heard by closed record appeal, as

provided in SMC 17.80.130. No additional public hearing shall be held., ~~but the appeal shall be conducted in a public meeting of the city council. The council shall only consider the existing record, and no new public testimony shall be considered.~~

(6) Superior Court. City land use decisions may be appealed to superior court, as provided by SMC 17.80.130. The petition must be served on all parties involved within 21 days of the issuance of the city land use decision. (Ord. 1253 § 16, 2009; Ord. 1110 § 3, 2002; Ord. 1084 § 3, 2000; Ord. 969, 1996; Ord. 929 Ch. 8(G), 1995. Formerly 17.80.140).

SECTION 5. SMC 17.80.130, Table of Land Use Procedures, is amended to change the name “Public Works Director” to “City Engineer” , to change the appeal hearing authority for Type I and Type II applications from the City Council to the Hearing Examiner, to remove the requirement for a pre-application meeting before the Planning Commission from Type V applications, to amend the requirement for 3 to 6 month notice of application from the comprehensive plan application process to allow an unspecified time frame for a notice of application, and to amend the notice of hearing timeline for subdivision and zoning text amendments from 15 days to 10 days, all as shown on Attachment 1.

SECTION 6. Chapter 17.85 Public Hearings, Section 17.85.010 General regulations on public hearings Subsection (2) , is amended to change the notification requirement from certified mail to first class mail as follows:

(2) The owner(s) of any/all lot(s) within the area to be changed as well as those within 300 feet of such area shall be notified by ~~certified~~ first class mail of the general purpose of any such hearing and the time and place thereof at least 10 days prior to the date of such hearing. If the applicant owns adjoining land, the distance of notification shall be measured from the outside of the applicant’s ownership. The applicant shall submit with the application mailing labels with names and addresses for such property owners which shall be as shown on the latest records of the assessor. Failure of any individual to receive the notice shall not invalidate the hearing.

(Ord. 1110 § 3, 2002; Ord. 1084 § 3, 2000; Ord. 969, 1996; Ord. 951 §§ 1, 2, 1996; Ord. 929 Ch. 9(A), 1995).

SECTION 7. Chapter 17.85 Public Hearings, Section 17.85.020 Transcription of testimony, is amended to read as follows.

17.85.020 Transcription of testimony.

At any public hearing before the city council, planning commission, or hearing examiner, all testimony, objections thereto and thereon shall be taken down by a clerk ~~reporter employed by the city for that purpose,~~ and/or recorded by a

recording machine set up for that purpose. If a written transcript of a recorded hearing is required, the city shall have a transcript prepared, the cost of which shall be borne by the requesting party. (Ord. 1084 § 3, 2000; Ord. 969, 1996; Ord. 929 Ch. 9(B), 1995).

SECTION 8 Chapter 17. Amendments, Section 17.155.010 Scope of Amendments is amended to read as follows:

Any provision of this code, as well as the boundaries of the various zoning districts established herein, may be amended by the Stanwood city council, after due public notice and hearing ~~before the planning commission~~, where interested parties and citizens shall have an opportunity to be heard, subject to the provisions of this chapter. (Ord. 1110 § 3, 2002; Ord. 1024, 1998; Ord. 929 Ch. 11(A), 1995).

SECTION 9 Chapter 17. Amendments, Section 17.155.030 Procedure for Amendments to the zoning code is amended to read as follows:

(1) Every ~~p~~-Proposed amendments to this title, including changes in the zoning district maps or boundaries, shall be first referred to the planning commission for review and public hearing except that the City Council may at its discretion assume the Planning Commission's authority to conduct the review and public hearing in the following instances :

a. when zoning text amendments involve corrections, or minor updates that do not require further study and review, or

b. when zoning text amendments implement a clear policy direction already determined by the City Council and the need for additional study and recommendation is not indicated.

(2) Upon submission of a complete application for an amendment to this title, as provided in SMC 17.155.080, the ~~City~~ commission shall schedule a public hearing, which shall be not less than 10 and not more than 60 days from the date the city provides notice that the application is complete. At the meeting, interested parties and citizens shall have the opportunity to be heard, under the requirements contained in Chapter 17.85 SMC.

(3) For a zoning map amendment, the commission shall receive in writing statements from the relevant city of Stanwood departments to inform them as to the availability and capacity of all required infrastructure, including roadway, water, wastewater, stormwater, and electrical power systems to accommodate the level of development that could occur if the zoning map amendment were to be granted. If statements are not available ~~at the time of~~ prior to the public hearing, those departments shall have an opportunity to make oral statements at said hearing. If no statement, written or oral, is given by any department or government agency, it shall be assumed that they concur with the requested amendment.

(4) Having taken into account the conditions and requirements set forth in subsections (2) and (3) of this section, as well as all requirements of Chapter

17.157 SMC when applicable, the commission shall render a recommendation on the zoning amendment request to the city council.

(5) The city council shall consider a recommendation from the planning commission on a request to amend any portion of this code, within 30 days after receiving the planning commission recommendation. The council shall then render a decision on said request, issue findings and conclusions and a final notice of decision on the proposal. (Ord. 1110 § 3, 2002; Ord. 1084 § 3, 2000; Ord. 1024, 1998; Ord. 929 Ch. 11(C), 1995).

SECTION 10 Chapter 17. Amendments, Section 17.155.050, Reclassification Scope, is amended to read as follows:

This chapter establishes the procedure and criteria that the city will use in making a decision upon an application for a ~~zoning code amendment~~ or a reclassification of property from one land use zone to another land use zone or for any change in the conditions imposed or in the terms of a concomitant agreement executed as part of a reclassification. (Ord. 1110 § 3, 2002; Ord. 1024, 1998).

SECTION 11 Chapter 17. Amendments, Section 17.155.070, Comprehensive Plan Consistency, is adopted to read as follows:

17.155.070 Application. Comprehensive Plan consistency.

A reclassification of property shall be consistent with the Future Land Use Map (FLUM) adopted as part of the Land Use Element of the Comprehensive Plan. In cases where a proposed amendment requires a change in the FLUM, a concomitant amendment to the Comprehensive Plan shall be required. Such an amendment shall be processed consistent with SMC 17.157 Comprehensive Plan

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Repealed by Ord. 1110. (Ord. 1024, 1998).

SECTION 12 Chapter 17. Amendments, Section 17.155.080, Submittal requirements Subsection (2) is amended to read as follows:

(2) Application for a zoning ~~code-text~~ amendment shall be made on forms prescribed by the city, and shall be accompanied by the following information:

- (a) Application form provided by the city;
- (b) Application fee;
- (c) SEPA checklist and fee;
- (d) Narrative addressing the decision criteria of SMC 17.155.090(2); and
- (e) Any other information as required by the planning director or the prescribed application form. (Ord. 1110 § 3, 2002; Ord. 1024, 1998).

SECTION 13 Chapter 17. Amendments, Section 17.155.130, Periodic updating of zoning map is amended to read as follows:

17.155.130 Periodic updating of zoning map.

From time to time, but at least consistent with RCW 36.70A.130 every five years, the city council shall update the zoning map and zoning code of the city. (Ord. 1024, 1998).

SECTION 14. Chapter 17.158 Annexation, Section 17.158.050 Pre-application conference is hereby amended to read as follows.

Prior to submitting a notice of intent to annex petition and related documents, the applicant will meet with the ~~planning community development~~ director and other departmental staff at an informal meeting to discuss the annexation process and any issues that may affect the proposed annexation request. ~~The applicant shall also meet with the planning commission prior to submitting the application.~~ (Ord. 1110 § 3, 2002; Ord. 1071, 1999).

SECTION 15 Chapter 17.158 Annexation, 17.158.120, Planning department review, subsection (1) is hereby amended to read as follows.

Upon filing of an annexation petition, the planning director shall evaluate the property in relation to the Comprehensive Plan, infrastructure capacity, existing level of service (LOS), capital improvements program, expected revenue/expenditures impact, and other element particulars important to the annexation request. The planning director may refer the petition to other parties for review and comment including but not limited to:

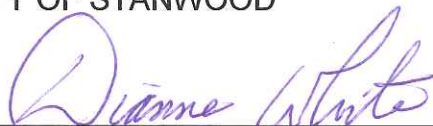
(1) A third party consultant may be required to provide level of service, fiscal, land use analysis or similar information if the director determines that additional data is needed to evaluate the impact of the proposed annexation on city services. The cost of any additional consultant services shall be the responsibility of the applicant and shall be based on a scope of work determined by the City and
Section 3.30, Fee Schedule SMC. ~~Urban planning and design consultants, traffic and civil engineers, landscape architects, and biologists, after notification to the applicant.~~

SECTION 16. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

SECTION 17. This Ordinance shall take effect and be in force five (5) days after its passage, approval and publication as provided by law.

PASSED by the City Council and APPROVED by the Mayor this 14th day of June, 2012.

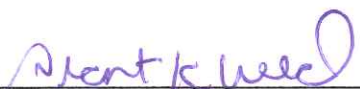
CITY OF STANWOOD

By 
DIANNE WHITE, Mayor

ATTEST:

By 
MELISSA COLLINS, City Clerk

Approved as to form:

By 
GRANT K. WEED, City Attorney