

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
LEWIS COUNTY, WASHINGTON**

**IN THE MATTER OF:**

RESOLUTION NO. 21-141

NOTICE OF PUBLIC HEARING TO CONSIDER  
ORDINANCE 1325, AN ORDINANCE TO AMEND  
CHAPTER 2.25, CHAPTER 16.05 AND CHAPTER  
17.05 OF THE LEWIS COUNTY CODE

**WHEREAS**, Lewis County is required to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the state in RCW 58.17, Plats-Subdivisions-Dedications; and

**WHEREAS**, to streamline the permitting process, the Planning Commission reviewed amendments to Chapter 2.25, Chapter 16.05 and Chapter 17.05 of the Lewis County Code to allow subdivisions as a Type III application; and

**WHEREAS**, the Lewis County Planning Commission held workshops on the draft amendment to the subdivision process at its meetings of December 8, 2020, and January 12, 2021; and held a duly noticed public hearing on the amendment on February 23, 2021; and

**WHEREAS**, following the public hearing, the Planning Commission voted unanimously to transmit the amendment to the Lewis County Board of County Commissioners (BOCC).

**NOW THEREFORE BE IT RESOLVED** that a hearing before the Board of County Commissioners is hereby scheduled for May 4, 2021, to take public testimony and/or written comment on the adoption of Ordinance 1325, amending Chapter 2.25, Chapter 16.05 and Chapter 17.05 of the Lewis County Code; and

**NOW THEREFORE BE IT FURTHER RESOLVED** that the Clerk of the BOCC is hereby instructed to proceed with all appropriate and necessary notifications, posting and publication for the changes as required by law.

DONE IN OPEN SESSION this 13th day of April, 2021.

APPROVED AS TO FORM:  
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS  
LEWIS COUNTY, WASHINGTON

Kevin McDowell  
By: Kevin McDowell,  
Deputy Prosecuting Attorney

Gary Stamper  
Gary Stamper, Chair

ATTEST:



Lindsey R. Pollock, DVM  
Lindsey R. Pollock, DVM, Vice Chair

Rieva Lester  
Rieva Lester,  
Clerk of the Lewis County Board of  
County Commissioners

Sean D. Swope  
Sean D. Swope, Commissioner



Lorie Spogen, Chair

## LETTER OF TRANSMITTAL

**To:** Lewis County Board of County Commissioners  
**From:** Lewis County Planning Commission  
**Date:** February 24, 2021  
**Subject:** Transmittal to the BOCC: Amendment to Lewis County Code, Chapter 2.25, 16.05 and 17.05, regarding the subdivision process.

### Dear Commissioners:

The purpose of this report is to transmit to the Board of County Commissioners a draft amendment to the Lewis County Code, which would allow:

- Preliminary approval of subdivisions as a Type III land use application; and
- Final plat approval of subdivisions as a Type I land use application to be signed off by the administrator after conditions imposed by the hearing examiner are met.

### Findings of Fact

1. Lewis County is required to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the state in RCW 58.17, Plats-Subdivisions-Dedications; and
2. RCW 58.17.330 allows hearing examiners to make the final decision for preliminary plats for subdivisions;
3. In 2017, RCW 58.17.100, RCW 58.17.170 and RCW 58.17.190 were updated to allow administrative personnel to sign off on the final plat after verifying the conditions imposed by the hearing examiner on the preliminary plat were met;
4. As part of the current code, Lewis County has regulations for the subdivision process in the following locations to classify subdivisions as a Type IV application:
  - a. LCC 2.25, Hearing Examiner
  - b. LCC 16.05, Subdivisions

c. LCC 17.05, General Provisions;

5. To streamline the permitting process, the Planning Commission elected to utilize the update in legislation to classify subdivisions as a Type III application;
6. Staff provided notice for a public hearing on the proposed code amendment in the manner prescribed in LCC 17.12 on February 2, 2021;
7. On February 23, 2021, the Lewis County Planning Commission held a public hearing on the proposed code amendments in Lewis County Code Chapter 2.25, 16.05, and 17.05; and
8. Following the public hearing, the Planning Commission deliberated the measures and determined that the proposed amendments met the intent and requirements of the Growth Management Act and Subdivision Act and were in accordance with the public interest.

### **Recommendation**

Based on the above findings, the Lewis County Planning Commission recommends that the Board of County Commissioners pass an ordinance that adopts the proposed changes to allow:

- Preliminary approval of subdivisions as a Type III land use application; and
- Final plat approval of subdivisions as a Type I land use application to be signed off by the administrator after conditions imposed by the hearing examiner are met.

Being duly authorized to transmit the recommendations on behalf of the Lewis County Planning Commission, I hereby respectfully submit the documents to the Lewis County Board of County Commissioners.

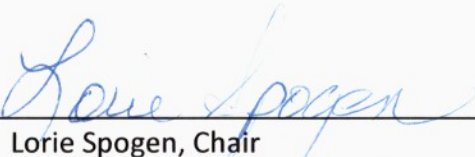
Attachments:

Lewis County Code Chapter 2.25 markup dated 02.23.2021

Lewis County Code Chapter 16.05 markup dated 02.23.2021

Lewis County Code Chapter 17.05 markup dated 02.23.2021

Submitted by

  
Lorie Spogen, Chair

Lewis County Planning Commission

Date



**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF LEWIS COUNTY, WASHINGTON**

**AN ORDINANCE OF THE COUNTY OF LEWIS AMENDING  
CHAPTER 2.25, 16.05 AND 17.05 OF THE LEWIS COUNTY  
CODE TO ALLOW SUBDIVISIONS AS A TYPE III PROJECT  
PERMIT APPLICATION**

) **ORDINANCE NO. 1325**  
) **DRAFT**  
)  
)

**WHEREAS**, Lewis County is required to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the state in RCW 58.17, Plats-Subdivisions-Dedications; and

**WHEREAS**, RCW 58.17.330 allows hearing examiners to make the final decision for preliminary plats for subdivisions; and

**WHEREAS**, in 2017, RCW 58.17.100, RCW 58.17.170 and RCW 58.17.190 were updated to allow administrative personnel to approve the final plat after verifying the conditions imposed by the hearing examiner on the preliminary plat were met; and

**WHEREAS**, as part of the current code, Lewis County has regulations for the subdivision process in the following locations to classify subdivisions as a Type IV application:

- a) LCC 2.25, Hearing Examiner
- b) LCC 16.05, Subdivisions
- c) LCC 17.05, General Provisions; and

**WHEREAS**, to streamline the permitting process, the Lewis County Planning Commission (Planning Commission) elected to utilize the update in legislation to classify subdivisions as a Type III application and update the above mentioned codes; and

**WHEREAS**, the Planning Commission held workshops on the draft amendment to the subdivision process at their meetings of December 8, 2020 and January 12, 2021; and held a duly noticed public hearing on the amendment on February 23, 2021; and

**WHEREAS**, following the public hearing, the Planning Commission voted unanimously to transmit the amendment to the Lewis County Board of County of Commissioners (BOCC);

**WHEREAS**, on February 24, 2021 the Lewis County Community Development Department sent notice of the proposed amendment to the Washington State Department of Commerce for their expedited review and have met the Growth Management notice to state agency requirements in RCW 36.70A.106, which ended on March 10, 2021; and

**WHEREAS**, the amendment to the subdivision process is exempt from the State Environmental Policy Act (SEPA) under WAC 197-11-800(19) - Procedural Actions; and

**WHEREAS**, on April 13, 2021, the BOCC passed Res. 21-XXXX to hold a public hearing on Ordinance 1325, and directed the Clerk of the Board to provide notice of the hearing; and



**WHEREAS**, the BOCC held a public hearing on May 4, 2021 to take public testimony or written comment on the adoption of Ordinance 1325, amending the Lewis County Code to allow subdivisions as a Type III project application.

**NOW THEREFORE, BE IT ORDAINED** that the BOCC hereby adopts the amendment to the Lewis County Code to allow subdivisions as a Type III project permit application as follows:

**SECTION 1.** Attachment A – Adopted revision of LCC 2.25  
Attachment B – Adopted revision of LCC 16.05  
Attachment C – Adopted revision of LCC 17.05

**PASSED IN REGULAR SESSION THIS 4<sup>th</sup> DAY OF MAY 2021, after a public hearing was held, pursuant to notice published in the Chronicle on April 15, 2021.**

APPROVED AS TO FORM:  
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS  
LEWIS COUNTY, WASHINGTON

\_\_\_\_\_  
By: Civil Deputy Prosecuting Attorney

\_\_\_\_\_  
Gary Stamper, Chair

ATTEST:

\_\_\_\_\_  
Lindsey R. Pollock, DVM, Vice Chair

\_\_\_\_\_  
Rieva Lester, Clerk of the Board

\_\_\_\_\_  
Sean Swope, Commissioner



## Chapter 2.25 HEARING EXAMINER

### Sections:

- 2.25.010 Definitions.**
- 2.25.020 Appointment.**
- 2.25.030 Qualifications.**
- 2.25.040 Term.**
- 2.25.050 Report to the board and board of health.**
- 2.25.060 Removal.**
- 2.25.070 Standards of conduct–Conflicts.**
- 2.25.080 Powers.**
- 2.25.090 Duties.**
- 2.25.100 Master, project permit applications.**
- 2.25.110 Administrative SEPA appeals.**
- 2.25.120 Procedures for substantive hearings.**
- 2.25.130 Appeals with the examiner.**
- 2.25.140 Appeals from the examiner.**

### **2.25.010 Definitions.**

As used in this chapter, unless the context or subject matter clearly requires otherwise, words shall be given the meaning attributed to them by this section. The term “shall” is always mandatory and the word “may” indicates a use of discretion in making a decision. Words not specifically defined herein shall be defined by the most recent edition of the American Heritage Dictionary of the office of the Lewis County board of commissioners.

- (1) “Board” means the Lewis County board of commissioners.
- (2) “Board of Health” means the Lewis County board of health.
- (3) “Closed record appeal” means an administrative appeal on the record, following an open record evidentiary hearing on a matter, with the appeal being on the record with no or limited new evidence or information allowed to be submitted and only appeal argument being allowed.
- (3) “County” means Lewis County, Washington.
- (4) “Department” means the Lewis County departments of public works, community development or health & social services.
- (5) “Examiner” shall mean the hearing examiner for the county of Lewis or a deputy thereof.
- (6) “Land use decision” shall include matters involving application for a master project permit or other county approval required by law before real property may be improved, developed, modified, sold, transferred, or used, but excluding applications for permits or approvals to use, vacate, or transfer streets, parks, and similar types of public property; excluding applications for legislative approvals such as area-wide rezones and annexations, excluding ministerial issuance of permits, approvals and

exemptions and excluding applications for business licenses; an interpretative or declaratory decision regarding the application to a specific property of zoning or other ordinances or rules regulating the improvement, development, modification, maintenance, or use of real property; and the enforcement of regarding the application to a specific property of zoning or other code sections, ordinances or rules regulating the code sections and ordinances regulating the improvement, development, modification, maintenance, or use of real property.

(7) "Master project application", for purposes of this chapter, shall include any land use or environmental permit or license required from the county for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area code sections, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations, except as specified by statute.

(8) "Open record hearing" means a hearing, conducted by the examiner, that creates the official administrative record through testimony and submission of evidence and information, under procedures prescribed by the Examiner and this chapter. An open record hearing may be held prior to a 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 hearing nor predecision hearing has been held.

(9) "Party of record" shall mean for each application or appeal: (a) the applicant/appellant; (b) all persons who testified at the public hearing; (c) all persons who individually submitted written comments concerning the specific matter to the responsible county department or hearing body prior to the close of the hearing (excluding persons who have only signed petitions and opinion letters, or mechanically produced form letters); and (d) all persons who specifically request notice of a decision by personally entering their name and mailing address on a register provided for such purpose at the public hearing; provided, that a person who becomes a party of record shall remain such through subsequent county proceedings involving the same application or appeal, except that the county may cease mailing notice and other materials to any party of record whose mail is returned by the postal service as undeliverable or no longer subject to automatic forwarding.

(10) "Project permit" or "project permit application" means any land use or environmental permit or license required from the county for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area and resource lands ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations, except as otherwise specified within this code. [Ord. 1157 & 1160, 1998; Ord. 1147 § 1.00, 1995; H96-0304 § 1.01, 1996]

#### **2.25.020 Appointment.**

The board shall appoint the Lewis County hearing examiner after solicitation and consideration of recommendations from elected officials of Lewis County, the Lewis County planning commission and the prosecutor, and consideration of such other recommendations as the board may deem useful and



necessary. The board may also appoint deputy hearing examiners as in the public interest after consideration of recommendations from the hearing examiner.

(1) The board, without solicitation and consideration of the above noted recommendations, may temporarily appoint an examiner pro tem to serve in the event of absence or inability to act of the examiner and deputy examiners. Such appointment shall be in writing and adopted by the board.

(2) Each deputy examiner shall have the same power in all respects as their principal. Such appointment shall be in writing and adopted by the board.

(3) The board, or the examiner upon approval of the board, may appoint one or more special deputy examiners upon a contract or fee basis whose authority shall be limited to the term and purposes stated in the writing signed by the board.

(a) For all proceedings subject to Chapter [17.15](#) LCC involving lands within the urban growth boundary (UGA) of any municipality and subject to an interlocal agreement empowering the respective municipality with land use decision making, and regulatory authority within its UGA, a special deputy examiner(s) shall be appointed, as herein provided for, to hear all matters associated therewith. [Ord. 1147A §1, 2003; Ord. 1157, 1998; Ord. 1147 § 2.01.01, 1995; H96-0304 § 2.01.01, 1996]

#### **2.25.030 Qualifications.**

The hearing examiner shall be appointed with regard to the appointee's qualifications for the duties of the office, and shall have prior training and experience in the field of administrative and quasi-judicial hearings, regulatory enactments, and statutory interpretation and application. [Ord. 1157 & 1160, 1998; Ord. 1147 § 2.01.02, 1995; H96-0304 § 2.01.01, 1996]

#### **2.25.040 Term.**

In all appointments of examiner, examiner pro tem, deputy and special deputy examiners, the terms shall initially be for not more than one year and as set by the board, with appointment terms thereafter for the examiner of three years, subject to review and approval by the board prior to the date of each reappointment. [Ord. 1157, 1998; Ord. 1147 § 2.01.03, 1995; H96-0304 § 2.01.01, 1996]

#### **2.25.050 Report to the board and board of health.**

The examiner shall annually report in writing to the board for the purpose of reviewing the administration of county planning, building and other regulating code sections, ordinances and policies, and shall report in writing to the board of health, upon request, for the purpose of reviewing the administration of health, safety and regulating health ordinances and policies. The examiner and shall meet with the board and county department heads at the request of the board, and with the involving matters of the office, and shall meet with the board of health and county health officials at the request of the board of health, involving matters of the office. The written report shall include a summary of examiner decisions during the preceding annual period, including the nature of the decisions and their particulars. [Ord. 1157 & 1160, 1998; 1147 § 2.01.04, 1995; H96-0304 § 2.01.02, 1996]

#### **2.25.060 Removal.**

An examiner may be removed from office for cause by majority vote of the board.

(1) An examiner pro tem shall answer to the board and, unless otherwise agreed to between the board and appointee, the board may revoke the appointment of the examiner pro tem at will.

(2) The hearing examiner shall be responsible for the acts of deputy and special deputy examiners and, upon prior notice to the board and unless otherwise agreed to between the board and appointee, may revoke such appointments at will. [Ord. 1157, 1998; Ord. 1147 § 2.02, 1995; H96-0304 § 2.01.02, 1996]

#### **2.25.070 Standards of conduct—Conflicts.**

(1) No person, including county officials, elective or appointive, shall attempt to influence the examiner or deputy examiner in any matter there before pending, except at a public hearing duly called for such purpose, nor shall interfere with such examiner in the performance of his or her duties in any other way; except that an official or employee of the county may, in the performance of official duties, provide information to an examiner when such action is thereafter disclosed prior to the use of such information at public hearings or meetings; provided, that this section does not prohibit the prosecuting attorney from rendering legal services to an examiner, when such services are not otherwise prohibited at law or by conflict.

(2) No examiner shall conduct or participate in any hearing or decision in which the examiner shall have a direct or indirect financial or personal interest, or has had significant prehearing contacts with proponents or opponents, or in which such conduct or participation shall violate any applicable rule of law. [Ord. 1157, 1998; Ord. 1147 § 2.03, 1995]

#### **2.25.080 Powers.**

(1) The hearing examiner shall have the authority to:

(a) Receive and examine available information;

(b) Conduct public hearings and prepare a record thereof;

(c) Administer oaths and affirmations;

(d) Examine witnesses; provided, that no person shall be compelled to divulge information which he or she could not be compelled to divulge in a court of law in civil litigation matters;

(e) Regulate the course of the hearing;

(f) Make and enter decisions;

(g) Hold conferences for settlement and prehearing matters;

(h) Dispose of procedural requests and similar hearing and prehearing matters;

(i) Issue summary orders as provided for under LCC [2.25.120](#) through [2.25.140](#); and

(j) Take such other action authorized or necessary to carry out this chapter.

(2) The above powers may be exercised on all matters for which jurisdiction is assigned either by county code sections, ordinance or, where appropriate, by other legal action of the county or its elected officials. [Ord. 1157, 1998; Ord. 1147 § 3.01, 1995; H96-0304 § 3.01, 1996]



## **2.25.090 Duties.**

The examiner shall hear, make a record of, and decide matters provided in this chapter or other county code sections and ordinances.

(1) These duties for board matters include, but are not limited to, adjudication or review of all land use decisions, and the following specific matters:

- (a) Matters prescribed by short subdivision/short plat and subdivision code sections;
- (b) Preliminary plats and modifications pursuant to RCW 58.17.330 and Title 16 and 17 LCC, which shall constitute final decisions subject to the appeal provisions;
- (c) Preliminary plat extension requests pursuant to RCW [58.17.140](#) and county code section, which shall constitute final decisions subject to the appeal provisions;
- (d) Plat vacations or amendments pursuant to Chapter [58.17](#) RCW, which shall constitute final decisions subject to the appeal provisions;
- (e) Hearings under Chapter [43.21C](#) RCW, State Environmental Protection Act (SEPA) and code sections thereto; and
- (f) Hearings of Chapter [17.20](#) LCC, Shoreline Management.
- (g) For all proceedings subject to Chapter [17.15](#) LCC involving lands within the urban growth boundary (UGA) of any municipality and subject to an interlocal agreement empowering the respective municipality with land use decision making and regulatory authority within its UGA, a special deputy examiner(s) shall hear all matters associated therewith.

(2) These duties for board of health matters include, but are not limited to, adjudication or review of all health ordinances of the board of health, and the following specific matters:

- (a) Conduct adjudicative proceedings and appeals on matters prescribed by solid waste rules and regulations;
  - (b) Conduct adjudicative proceedings and appeals on matters prescribed by sewage system rules and regulations, consistent with Chs. [43.70](#) & [34.05](#) RCW, and Ch. [246-10](#) WAC, as amended;
  - (c) Conduct food services sanitation appeals under H94-0304(6)(D) and WAC [246-215-220](#), as amended; and
  - (d) Any such other quasi-judicial or appellate jurisdiction hereinafter created by adoption, application or amendment of said state and board of health regulations;
- (3) Except as otherwise provided, an examiner's decision shall be final and conclusive, and may be reviewable as specified within this chapter, or within any other county code section, or statute or regulation to such other administrative appellate board or court of competent jurisdiction, as shall thereto be applicable.

(4) In computing any period of time prescribed hereunder, the day of the action from which the designated period of time begins to run shall not be included. The last day of the period so computed

shall be included, unless it is a Saturday, Sunday or a county legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or county legal holiday. [Ord. 1147A §2, 2003; Ord. 1157 & 1160, 1998; 1147 §3.02, 3.03, 1995; H96-0304 §3.02, 1996]

#### **2.25.100 Master, project permit applications.**

Any persons proposing an action or project which requires more than one of the permits, at both state and local levels, approvals or reviews listed in LCC [2.25.090](#) may submit a master, project permit application to the department on forms furnished by the department containing all necessary information for all project permits. The master application shall thereafter be processed by the examiner, in conjunction with the department and other appropriate county and state departments, and subject to the longest time limitations applicable to any of the required permits, approvals or review thereunder. If any of the required approvals constitute a recommendation to the board, the decision of the examiner as to all such permits, approvals and reviews shall constitute a recommendation to the board; otherwise, the decision of the examiner shall be final and subject to appeal under this chapter. [Ord. 1157 & 1160, 1998; Ord. 1147 § 3.03, 1995]

#### **2.25.110 Administrative SEPA appeals.**

Administrative SEPA appeals involving procedural issues (e.g., the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement) or substantive determinations under SEPA shall be consolidated with any appeal before the examiner on the underlying governmental action. [Ord. 1157, 1998; Ord. 1147 § 3.04, 1995]

#### **2.25.120 Procedures for substantive hearings.**

The examiner shall implement procedural rules for the conduct of hearings of substantive matters and other procedural matters related to the duties of the office in accordance with state law and county code section.

(1) Where a public hearing is required by statute, code section or ordinance, the examiner shall hold at least one open record public hearing prior to any rendering of a decision on such matter. All testimony at any such hearing shall be taken under oath. Notice of the time and place of the open record public hearing shall be given as required by statute and county code section. At the commencement of the hearing, the examiner shall give oral notice of the opportunity to become a party of record.

(2) Each person participating at a public hearing with an examiner shall have the following rights, among others:

(a) To call, examine and cross-examine witnesses (subject to content and time limitations set by the examiner in accordance with the examiner's rules of procedure) on any matter relevant to the issues of the hearing;

(b) To introduce documentary and physical evidence on any matter relevant to the issues of the hearing;

(c) To rebut evidence against him/herself; and

(d) To represent him/herself or to be represented by a lawyer licensed in Washington at his/her own expense.



(3) Where no specific provision for a report of the department or other county departments is contained within the statute, code section or ordinance governing such hearings, the department and other county departments may coordinate and assemble the reviews of other county/city departments, other state or local governmental agencies and franchised public utilities having an interest in the subject matter and prepare a report summarizing the matter involved and the department's or departments' findings and recommendations. At least seven calendar days prior to the scheduled hearing date, such report shall be filed with the examiner and copies thereof made available for public inspection and purchase.

(4) (a) Within 10 calendar days of the conclusion of the hearing, unless a longer period by written finding is determined to be necessary, the examiner shall render a written decision which shall include findings of fact and conclusions based on the record. Except as stated under LCC [2.25.090](#) and [2.25.100](#) as to recommendation matters, or under statute or other county code section, the decision of the examiner shall be final and conclusive on the fifteenth day after the date of execution of the decision unless a petition for review is filed pursuant to LCC [2.25.130](#). Appeals of the hearing examiner's decision shall be made by closed record appeal to an examiner, or as an open record appeal when required in LCC [2.25.130](#). The examiner's decision together with his findings, conclusions, and the record and exhibits of the proceedings shall be filed with the department or in the alternative with the appropriate department or official. If the effect of the decision is a recommendation to the board, the original thereof shall be transmitted to the legislative body.

(b) The decision of the examiner may grant, grant in part, return to the applicant for modification, deny without prejudice, deny or grant with conditions, modifications and restrictions as the examiner finds necessary to make the application compatible with statutory, and county and board of health policies, objectives, comprehensive planning and regulations.

(5) Unless different procedures are prescribed by statute or county code section, the department, or in the alternative the appropriate department or official, shall mail copies of the examiner's decision to the applicant by certified mail and to all other parties of record by regular mail on the date of issuance of the decision by the examiner.

(6) (a) Any party of record or department or official of the county may file a written petition for reconsideration with the examiner within 10 calendar days following the date of entry of the examiner's decision. Timely filing of a petition for reconsideration shall stay the effective date of the examiner's decision until such time as the petition has been disposed of by the examiner. The grounds for seeking reconsideration shall be limited to the following:

(i) The examiner exceeded his jurisdiction;

(ii) The examiner failed to follow the applicable procedure in reaching a decision;

(iii) The examiner committed an error of law or misinterpreted the applicable statute, county code section, ordinance or resolution, law or regulation;

(iv) The examiner's findings, conclusions or conditions are not supported by the record;

(v) Newly discovered evidence alleged as material to the examiner's decision which could not reasonably have been produced at the hearing; and



(vi) Changes to the application proposed by the applicant in response to deficiencies identified at hearing.

(b) The petition for reconsideration shall contain: specific identification of the hearing and parties involved in the order, permit, decision, determination or other action being petitioned for reconsideration (including the county's file and application number where applicable); the specific findings, conclusions, actions and conditions upon which the petitioner relies for reconsideration, including a concise statement of the factual reason for reconsideration and, as applicable, the identity and specific nature of the newly discovered evidence and its importance in the reconsideration proposed by the petitioner (in the case of reconsideration involving SEPA, shorelines and floodway hazard permits, a specific listing must be made of the sections and elements addressed by the decision); the full name, mailing address, daytime telephone number of each petitioner, together with the signature of at least one of the petitioners, or the attorney for the petitioner(s), if any. The party(s) filing a petition for reconsideration shall certify the service of a true copy of the same upon the department, the applicant and all parties of record by regular mail in conjunction with said filing.

(c) The petition will have been deemed denied if one of the following actions has not been taken within 10 calendar days following receipt of the petition. The examiner may by written order:

(i) Deny the petition;

(ii) Grant the petition and issue an amended decision, as provided for above;

(iii) Grant the petition and give all parties of record notice of the petition and an opportunity to submit written testimony or argument within 10 calendar days;

(iv) Grant the petition and set the matter for further hearing to occur within 10 calendar days unless the examiner notices the parties by written finding that an extended hearing date setting is needed, to consider new testimony, proposed changes in the applications or to hear oral argument of the parties. Notice of such public hearing shall be mailed by regular mail to all parties of record on the same date as issuance of the examiner decision to grant the reconsideration hearing. A decision on reconsideration following such hearing shall be mailed to the applicant by certified mail, and to all other parties of record by regular mail not later than three working days following the hearing. Only the original decision of the examiner may be subject to reconsideration, and the examiner may consolidate for action, in part or in whole, multiple petitions for reconsideration of that original decision. [Ord. 1174A § 7, 2001; Ord. 1174, §7, 2000; Ord. 1157 & 1160, 1998; 1147 § 4.01, 1995; H96-0304 § 4.01, 1996]

#### **2.25.130 Appeals with the examiner.**

Administrative appeals over which the examiner has jurisdiction, unless otherwise specifically provided for by county code section, shall be subject to the following procedural requirements:

(1) (a) Appeals shall be addressed to the hearing examiner, shall be filed within 10 calendar days of the date of the action being appealed, and shall be accompanied by a filing fee of \$100.00 unless a different fee is otherwise specified for such appeal in the annual schedule of fees, in which case the latter shall control. To appeal an action taken by a department of the board of county commissioners, the appeal shall be filed with the director of the department. To appeal an action taken by the board of health or its subordinate, the appeal shall be filed with the director of the department of public health and social



services. A land use decision appeal and a board of health appeal may be consolidated by an examiner, on its own motion or motion of a party, on any appeal involving the same subject property or matter, or case or controversy, with such appeal singularly being heard before the examiner. The filing fee shall not be charged to any department or official of the county nor to other than the first-in-time petitioner. In the event that an appeal or said party to an appeal is dismissed for procedural defect prior to submission of the matter to the examiner, such as but not limited to untimely filing, lack of standing or other facial defect, such filing fee shall be refunded and the next-in-time filing party, where applicable, shall be assessed the filing fee. The failure of the appropriate next-in-time party to pay the filing fee within 10 calendar days of notice, as stated in subsection (1)(b) of this section, shall result in waiver of appellate rights by that party, as stated in subsection (2) of this section, and each nonpaying, next-in-time party in succession thereafter from the appeal.

(b) At the time of filing the appeal, a petitioner may request a waiver of the filing fee based upon economic hardship. The permittee must provide sufficient written evidence to support a claim of economic hardship in conjunction with such request for a fee waiver. The factors the examiner may consider as to whether a petitioner faces economic hardship include, but are not limited to, financial or personal distress of the permittee. A written decision granting or denying fee waiver shall be mailed by the examiner to petitioner (and in conjunction with the mailing of any notice of correction or completion, noted below). The examiner may allow not more than 10 calendar days after mailing of the decision denying fee waiver in which to receive the filing fee to perfect the appeal. The decision of the examiner is final for purposes of such determinations.

(2) (a) A written petition for appeal must contain the items set forth in this section in order to be complete and perfected, and the party appealing the decision designated as "petitioner." The examiner shall immediately examine the petition for completeness and shall immediately notify the petitioner by mail of defects in the petition requiring correction or completion. The examiner may allow not more than 10 calendar days after mailing of notification of defect in which to receive a perfected appeal for filing. A petition for appeal shall contain all of the following:

(i) Specific identification of the order, permit, decision, determination or other action being appealed (including the county's file or application number where applicable). A complete copy of the document or written decision being appealed must be filed with the appeal;

(ii) Specific identification of the county code provision which authorizes the appeal;

(iii) The specific grounds upon which the petitioner relies, including a concise statement of the factual reason for the appeal and, if known, identification of the policies, statutes, codes, or regulations that the petitioner claims are violated. In the case of appeals involving SEPA, shorelines and floodway hazard permits, a specific listing of the sections and elements alleged to be inadequately or inappropriately addressed and the reasons therefor shall be included;

(iv) The full name, mailing address, daytime telephone number of each petitioner, together with the signature of at least one of the petitioners, or the attorney for the petitioner(s), if any;

(v) The name, mailing address, daytime phone and signature of the petitioner's attorney, if any; and

(vi) The required filing fee.



(b) The costs of transcribing the records of proceedings, of copying photographs, video tapes and any oversized documents, and of staff time associated with copying and assembling the record and preparing any records shall be borne by the petitioner (or equally by the petitioners, if more than one) for the review, with such monies being paid in advance of such transfer to the examiner.

(3) Unless otherwise specified within this code, timely filing of an appeal shall stay the effect of the order, permit, decision, determination or other action being appealed until the appeal is finally disposed of by the examiner or withdrawn; provided, that filing of an appeal from the denial of a permit shall not stay such denial. Failure to file a timely and complete appeal shall constitute waiver of all rights to an administrative appeal under county jurisdiction.

(4) No new appeal issues may be raised or submitted after the close of the time for filing of the original appeal, excepting the raising of errors affecting a constitutional right by parties to an appeal through amendment of their petition for appeal, and the appeal shall be by closed record appeal; except, an open record appeal is permitted when there has not been a previous open record hearing. New evidence and testimony may be given and received in an open record appeal only on issues and errors identified by petitioner on the appeal, except as otherwise provided for under the examiner's rules of procedure. Open record appeals shall be conducted in accordance with the examiner's rules of procedure for substantive hearings, where applicable, and shall serve to provide argument and guidance for the examiner's decision. Open record appeals shall otherwise be conducted as provided for closed record appeals.

(5) The department shall forward the petition(s) for appeal to the examiner's office within three working days of its filing.

(6) The examiner's office, within three working days of receipt of the appeal, shall send written notice of the filing of the appeal to the department or official whose decision has been appealed, which such department shall be thereafter referred to as the "respondent." The respondent, within three working days of receiving notification from the examiner's office, shall transmit to the examiner all relevant and nonprivileged public files on the order, permit, decision, determination or other action being appealed.

(7) The examiner's office, within three working days after receipt of the file from respondent, shall send written notice of the filing of a perfected appeal by certified mail, return receipt requested, to the person named in the order or to the person who initially sought the permit, decision, determination or other action being appealed, whenever the appeal is filed by other than such person, and to all parties of record by regular mail.

(8) The examiner may summarily dismiss an appeal in whole or in part without hearing if the examiner determines that the appeal is untimely, incomplete (having complied with subsection (2) of this section), without merit on its face, frivolous, beyond the scope of examiner jurisdiction or brought merely for the purpose of delay. The examiner may also summarily dismiss an appeal where it is found in response to a written challenge raised by the respondent or permit, etc., applicant and after allowing the petitioner five calendar days in which to reply to the challenge that the petitioner lacks legal standing to appeal or failed to perfect appeal. Except in extraordinary circumstances, summary dismissals shall be decided, with or without oral argument at the discretion of the examiner, within five calendar days of receipt of such reply or the expiration of such time for reply, whichever is the later.



(9) Appeals shall be processed by the examiner as expeditiously as practicable, giving proper consideration to the procedural due process rights of the parties.

(a) Except as otherwise provided hereunder, no more than 30 calendar days should elapse from the date of the perfection of an appeal and the date of a closed record hearing on the appeal, and no more than 40 calendar days should elapse from the date of perfection of the appeal to the issuance of an examiner decision on the appeal.

(b) Except as otherwise provided hereunder, appeal hearings on board of health matters under LCC [2.25.090](#)(2)(a) and (b) should be set not less than 20 days nor more than 30 days following perfection of an appeal.

(c) The parties to an appeal may agree or the applicant/permittee and the county may mutually agree upon specific extensions of the date of the appeal hearing and decision. The examiner may consolidate multiple appeals of the same action for hearing and decision making purposes to facilitate expeditious and thorough consideration of the appeal, without adversely affecting the due process rights of such parties. In event of a conflict between time deadlines with consolidated appeals, the time deadlines for the last filed appeal shall control all deadlines.

(10) Notice for appeal hearings shall require that the petitioner, the person named in the order or the person who initially sought the permit, decision, determination or other action being appealed, whenever the appeal is filed by other than such person, and all parties of record, the respondent, and all persons otherwise entitled notice by specific statute or county code section, shall be given at least seven calendar days' written notice of the date upon which the matter will be considered at public hearing. Mailing of notice shall be the responsibility of the department, or the department/official responsible for the permit, decision or other action being appealed.

(a) Notices required under this subsection shall be deemed adequate where a good-faith effort has been made by respondent to identify and mail notice to each person entitled thereto.

(b) Notices mailed pursuant to this chapter shall be deemed received by those persons named in an affidavit of mailing executed by the person designated by the examiner, the department, or department or official to mail the notices. The failure of any person to actually receive the notice shall not invalidate any action.

(11) The appeal hearing and the examiner consideration of the appeal shall be limited solely to the issues and errors identified by the petitioner in advance of hearing, and based solely on the record of proceedings, subsection (12) of this section, or upon such additional evidence as may be provided in an open record appeal, pursuant to subsection (4) of this section.

(12) (a) The examiner shall render a written decision which shall include findings of fact and conclusions based only on the record on appeal. Except as stated under LCC [2.25.090](#) and [2.25.100](#) as to recommendation matters, or under statute or other county code section, the decision of the examiner shall be final and conclusive on the fifteenth day after the date of execution of the decision, unless a notice of appeal to the superior court is filed pursuant to LCC [2.25.140](#). The examiner's decision together with his findings, conclusions, and the record and exhibits of the proceedings shall be filed with the appropriate department or official. If the effect of the decision is a recommendation to the board, the original thereof shall be transmitted to the legislative body.



(b) The examiner may issue a decision on an appeal which may, in conformity with applicable statutes and county code sections, reverse or affirm, in whole or in part, or modify the order, permit, decision, determination or other action appealed from; the examiner thereby having full authority to exercise the authority of the department or official from whom the appeal is taken on that particular issue.

(13) Unless different procedures are prescribed by statute or county code section, the department or, in the alternative, the appropriate department or official shall mail copies of the examiner's decision to the petitioner, the person named in the order or to the person who initially sought the permit, decision, determination or other action being appealed, whenever the appeal is filed by other than such person, and all parties of record, the respondent, and all persons otherwise entitled notice by specific statute or county code section by regular mail not later than three working days following the entry of the decision by the examiner.

(14) No individual examiner shall adjudicate at both an examiner open record hearing on any matter and an open or closed record appeal on such matter through the office of the examiner.

(a) For all proceedings subject to Chapter [17.15](#) LCC, involving lands within the urban growth boundary (UGA) of any municipality and subject to an interlocal agreement empowering the respective municipality with land use decision making and regulatory authority within its UGA, a special deputy examiner(s) shall adjudicate at the initial examiner hearing on any matter, whether as an open record hearing or as an appeal. [Ord. 1289 §2, 2018; Ord. 1147A §3, 2003; Ord. 1174A § 8, 2001; Ord. 1174, §8, 2000; Ord. 1157 & 1160, 1998; Ord. 1147 § 4.02, 1995; H96-0304 § 4.02, 1996]

#### **2.25.140 Appeals from the examiner.**

(1) Except as to those decisions which constitute recommendations under LCC [2.25.090](#) and [2.25.100](#), and as otherwise specified by statute or other county code section, a final decision from an appeal to the examiner may be appealed, as may be applicable and as provided for at law, to the superior court of Lewis County, Washington by one or more of the following means: (a) a land use petition pursuant to the Land Use Petition Act under Chapter [36.70C](#) RCW for "land use decisions" as therein defined; or by (b) a writ of certiorari pursuant to the provisions of Chapter [7.16](#) RCW, except as limited by the standing requirements and review standards under RCW [58.17.180](#), and by Chapters [43.21C](#) RCW and [197-11](#) WAC; or pursuant to RCW [34.05.510](#), et seq., of the administrative procedures act.

(2) For purposes of writ of certiorari review, the following shall apply:

(a) parties shall first exhaust all available administrative remedies under this chapter, including reconsideration; and

(b) such review is commenced by the filing with said court, within 15 calendar days after issuance of such decision, a writ of review which briefly states the decision appealed and describing why error is assigned to that decision, in accordance with Chapter [7.16](#) RCW;

(3) For purposes of writ of certiorari and appeals under the administrative procedures act, the costs of transcribing the records of proceedings, of copying photographs, video tapes and any oversized documents, and of staff time associated with copying and assembling the record and preparing the return for filing with the court shall be borne by the applicant (or equally by the applicants, if more than



one) for the writ, with such monies being paid in advance of such filing with the court. [Ord. 1157 & 1160, 1998; Ord. 1147 § 4.03, 1995; H96-0304 § 4.03, 1996]

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**Chapter 16.05**  
**SUBDIVISIONS**

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#### Article I. General Provisions

##### **16.05.010 General provisions.**

- (1) Title. The title of this chapter shall be the Lewis County subdivision chapter.
- (2) Suitability for Subdivision. Land found to be unsuitable for division for want of conformance to applicable regulation or evidence presented to the commission of flooding, bad drainage, steep slopes, rock formations, or other features likely to be harmful to the safety and general health of future residents shall not be permitted to be divided unless adequate methods are provided for overcoming these conditions.
- (3) Conformance with Standards and Policies. All installation of improvements, including those serving but located outside the subdivision, shall be installed in conformance with all applicable regulations adopted by Lewis County.
- (4) Administrator. The Lewis County director of the community development department or their designated representative, hereafter referred to as the administrator, is vested with the duty of administering subdivision and platting regulations in the unincorporated areas of Lewis County, and may prepare and require the use of such forms as are essential to their administration.

#### Article II. Purpose

##### **16.05.020 Purpose.**

The purpose of this chapter is to regulate the division of land into five or more lots in compliance with RCW 58.17.030 as amended.

### **Article III. Scope**

#### **16.05.030 Scope.**

(1) Applicability. Every subdivision of land into five or more lots as defined herein shall proceed in compliance with this chapter. Land divided by short subdivision within five years immediately preceding shall be subdivided pursuant to this chapter.

(2) Exemptions. The provisions of this chapter shall not apply to:

(a) Cemeteries and other burial plots while used for that purpose;

(b) Divisions of land into lots or tracts each of which is one-one hundred twenty-eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land; provided, that for the purposes of computing the size of any lot under this chapter which borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the centerline of the road or street and the side lot lines of the lot running perpendicular to such centerline;

(c) Divisions made by testamentary provisions, or the laws of descent;

(d) A division for the purpose of lease when no structure other than mobile homes or travel trailers are to be placed on the land and the county has approved a binding site plan for the use of the land in accordance with the requirements of Chapter 15.30 LCC as now or hereafter amended;

(e) A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;

(f) Divisions of land into lots or tracts zoned or designated within urban growth areas for industrial or commercial development, rural industrial and commercial areas, and urban commercial and industrial reserve areas, when the county has approved a binding site plan for the use of the land in accordance with commercial binding site plan regulations, now or hereinafter existing.

(3) Redivision of Land within an Existing Subdivision. The further division of any lot situated within an existing full subdivision established pursuant to either Chapter 58.16 or 58.17 RCW or this chapter into four lots or less for purposes of sale, resale, lease or transfer of ownership shall proceed in compliance with Chapter 16.10 LCC, as now or hereafter amended.

### **Article IV. Preliminary Plat Procedure**

#### **16.05.050 Preliminary plat - Application.**

A preliminary plat application shall be processed as a Type III application per Chapter 17.05 LCC.

#### **16.05.080 Processing.**

Upon receipt of a complete preliminary plat application the administrator shall affix a file number and date of receipt to the application and promptly forward copies of the plat with a request for comment to the following agencies as appropriate:



- (1) The Lewis County public works department;
- (2) The Lewis County community development department;
- (3) The Lewis County building official;
- (4) The Lewis County fire marshal;
- (5) The Lewis County environmental health section;
- (6) Other county officials concerned within the scope of their municipal functions;
- (7) The proper city officials when the subject property is within one mile of the corporate limits of any city or town;
- (8) Engineer of the Washington State Department of Transportation when the subject property is adjacent to the rights-of-way of existing or proposed state highways;
- (9) Local school district;
- (10) Local fire district;
- (11) Utility purveyors;
- (12) Lewis County natural resources conservation district;
- (13) Municipalities whose urban growth boundaries or urban reserve areas overlay any portion of the subject property;
- (14) Any other agency with interest, expertise, or jurisdiction.

**16.05.090 Recommendations of other agencies.**

- (1) Each of the departments, municipalities, districts, public officials, utility companies, or other public agencies shall forward to the administrator written reports of its comments and recommendations.
- (2) County Engineer - Public Works Division. The public works division shall submit a report on:
  - (a) The improvements required under the provisions of this chapter;
  - (b) Any easements that may be required;
  - (c) The effect of subdivision development on drainage in the general area, and the adequacy of the plan for handling drainage and stormwater runoff submitted by the subdivider;
  - (d) Effects of the proposed subdivision on other public improvements under the jurisdiction of the county engineer/public works division;
  - (e) The accuracy of the technical information submitted;
  - (f) The adequacy of lot arrangement and dimensions for providing driveway access to buildings on such lots from an approved street;
  - (g) The adequacy of any proposed public and private roadways;

(h) The adequacy of transit stops, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school.

(3) Lewis County Environmental Health Section. The environmental health section shall submit a report on:

(a) Adequacy of the proposed method of sewage disposal;

(b) Adequacy of the proposed method of domestic water supply, and incorporating the determination of potability by the building official;

(c) The adequacy of lot arrangement and dimensions for obtaining any necessary sewage permits;

(d) Other matters related to the proposed subdivision which may affect public health.

(4) Lewis County Building Official. The county building official shall submit a report on:

(a) The adequacy of lot arrangement and dimensions for securing necessary building permits;

(b) Compliance with Chapter 15.15 LCC as now or hereafter amended;

(c) Compliance with the Chapter 15.35 LCC as now or hereafter amended;

(d) The availability of potable water.

(5) Lewis County Fire Marshal. The county fire marshal shall submit a report on:

(a) The adequacy of access for emergency vehicles;

(b) Adequacy of the water supply for fire protection purposes;

(c) Fire hydrant location and adequacy;

(d) Other matters affecting fire safety and fire protection, including any temporary fire protection measures needed during the construction phase of the subdivision.

(6) The Administrator. After receiving the comments from the departments or agencies, the administrator shall submit a report to the hearing examiner regarding the conformance of the proposed subdivision to the requirements of this chapter.

#### **16.05.100 Hearing examiner hearing date.**

Following the receipt of an application completed in compliance with the requirements of this article, the administrator shall set the date for public hearing before the Lewis County hearing examiner. Said hearing shall be held in accordance with Chapter 2.25 LCC. Any public notice and appeal period for an environmental review subject to Chapter 17.110 LCC shall be issued and expire prior to the public hearing.

#### **16.05.120 Public hearings.**

(1) Scope and Continuance.



(a) The hearing examiner shall consider the preliminary plat application for conformance to any adopted comprehensive plan, planning standards, and specifications, including Article VI of this chapter and other policies and standards of the county.

(b) The hearing examiner shall additionally ensure that:

(i) Appropriate provisions are made for public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and all other relevant items, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school;

(ii) The public use and interest will be served by the platting of the subdivision and any dedications associated with the subdivision.

(c) If the examiner finds that the proposed subdivision and dedication make appropriate provisions and that the public use and interest will be served, then the examiner shall approve of the proposed subdivision. Dedication of land to any public body and/or provision of public improvements to serve the subdivision may be required as a condition of subdivision approval.

**16.05.130 Hearing examiner action.**

(1) Every decision made by the hearing examiner under this chapter to approve or disapprove a preliminary plat shall be in writing and shall include findings of fact and conclusions to support the decision.

(2) Records. Records of the public hearings and public meetings concerning a preliminary plat shall be kept by the administrator, and shall be open to public inspection.

**16.05.140 Preliminary plat approval.**

(1) Approval of the preliminary plat by the hearing examiner shall provide notice to the subdivider that he/she may proceed to develop the subdivision's facilities and required improvements.

(2) Facilities and required improvements must be developed or bonded in strict accordance with the standards established by this chapter and imposed by the hearing examiner.

(3) Any improvement work requiring review and approval by the county engineer/public works division shall not commence until the preliminary plat has been approved by the hearing examiner and until the improvement plans have been checked for accuracy and approved by the county engineer/public works division. As the improvement work is undertaken, the subdivider shall arrange all the inspections required by the county engineer/public works division. No stage of construction shall proceed until the preceding stage has been inspected.

(4) The approval of a preliminary plat shall not imply the approval to convey lots. Transferring of lots depicted on a preliminary plat shall not occur until a final plat has been recorded.

(5) A final plat in conformance with the approved preliminary plat must be submitted within the time period established in LCC 17.05.140.

(6) Minor or Major Adjustments. Once a preliminary plat has been approved, no alterations shall be made without receiving additional approvals. Minor or major adjustments may be applied for by the plat applicant.

(a) Minor adjustments shall be addressed as a Type I application.

(b) Major adjustments shall be addressed as a Type III application. Major adjustments are alterations that are determined to be of a substantial nature by the administrator, and require reconsideration of one or more of the approval elements under LCC 16.05.120.

#### **16.05.150 Preparation of preliminary plats.**

The preparation of every preliminary plat shall be made by or under the direction of a land surveyor or engineer licensed by the state of Washington.

#### **16.05.170 Subdivision design and minimum standards.**

Every subdivision shall conform with the design standards articulated in Article VI of this chapter.

### **Article V. Final Plat Procedure**

#### **16.05.180 Filing period.**

At any time within the time period established in LCC 17.05.140, the subdivider may cause the subdivision to be surveyed and a final plat to be prepared. The original copy shall be filed with the administrator. Any failure to record a final plat within time limits specified in LCC 17.05.140 shall terminate all proceedings.

#### **16.05.190 Final plat - Application.**

A final plat application shall be processed as a Type I application per Chapter 17.05 LCC.

#### **16.05.200 Review by administrator.**

The administrator shall verify:

(1) That the final plat meets all standards established by Chapter 58.17 RCW and that all conditions of preliminary plat approval have been met. No agency shall modify the conditions of approval without the consent of the subdivider;

(2) That the proposed final plat bears all the dedications, acknowledgments, and endorsements required by LCC 16.05.240(2). The subdivider shall be responsible for obtaining the endorsement of the county treasurer and the signature of the property owner(s) and the signature of the subdivider's surveyor prior to filing;

(3) That a title report from a title insurance company authorized to do business in the state of Washington confirms that title of the land in the proposed subdivision is vested in the name of the owner(s) whose signatures appear in the plat dedication. The report shall have been issued within 30 days of the filing of the final plat;



(4) That all private facilities and improvements required to be provided by the subdivider have been completed and that any such required public facilities or improvements have been completed or that the requirements of LCC 16.05.260 have been satisfied;

(5) That any maintenance agreement required by LCC 16.05.360 has been submitted with the final plat;

(6) That the recommendation of any agency furnishing sewage disposal or supplying water as to the adequacy of the proposed means of sewage disposal and water supply has been received.

**16.05.210 Disapproval of final plat.**

(1) If the administrator verifies the matters in LCC 16.05.200, he or she shall approve the final plat unless:

(a) the administrator finds that the preliminary plat approval violated controlling state or federal law; and

(b) the administrator initiates a revocation procedure of the preliminary plat approval under LCC 17.05.150.

(2) If the administrator cannot verify the matters in LCC 16.05.200, he or she shall disapprove the final plat, advising the subdivider in writing of the reason for the disapproval and of the appeal procedure.

(3) Prior to disapproval under subsection (2) of this section, the administrator may provide courtesy notice to the subdivider of any curable issue, so as to allow cure and approval rather than disapproval.

**16.05.220 Approval and recording.**

The final plat shall become effective when the subdivider has filed the original copy of the final plat for record in the office of the county auditor, with the notation made of the fact thereof that the same has been approved by the administrator as herein provided. Failure to so file with the county auditor within 60 days after action shall automatically cause a lapse of approval. The final plat shall be duly filed with and recorded by the county auditor upon receipt of the full amount of the filing fee according to the provisions of RCW 36.18.010. Two paper copies of the filed final plat shall be returned to the subdivider.

**~~16.05.230 Disapproval of final plat.~~**

~~Repealed~~

**16.05.240 Standard format.**

(1) Maps and Drawings. Every final plat shall consist of one or more sheets each 18 inches by 24 inches clearly and legibly drawn on stable base mylar polyester film. All drawings and lettering on the final plat shall be in permanent black ink. A margin line shall be drawn completely around each sheet leaving an entirely blank margin of two inches on the left side and one inch on the remaining sides. The plat scale shall not be more than 50 feet to the inch nor less than 200 feet to the inch. If more than one sheet is required, each sheet shall be numbered, indexed, and contain the subdivision name. All signatures shall be written in permanent black ink. Every final plat shall include an accurate map of the subdivided land based upon a complete survey thereof. The map shall include the following:

(a) The perimeter of the plat shall be depicted with heavier lines than appear elsewhere in the plat;

- (b) All section, township, municipal, and county lines lying within or adjacent to the subdivision;
- (c) The location of all monuments or other evidence used as ties to establish subdivision boundaries;
- (d) The location of all permanent control monuments found and established within the subdivision;
- (e) The length and bearings of all straight lines; the radii, arcs, and semi-tangents of all curves;
- (f) The boundaries of the subdivision with complete bearings and lineal dimensions;
- (g) The length of each lot line together with bearings and other data necessary for the location of any lot in the field;
- (h) The location, width, centerline, and name of all streets within or adjoining the subdivision;
- (i) The location and width, shown with broken lines, and description of all easements;
- (j) The numbers assigned to all lots and blocks within the subdivision;
- (k) Delineation of the floodplain when present.

(2) Written Data. In addition to map(s) and drawings, every final plat shall contain the following written data:

- (a) Subdivision name;
- (b) Legal description of the land within the subdivision;
- (c) The certification of the registered land surveyor who made or under whose supervision was made the survey of the subdivision, in substantially the following language:

I \_\_\_\_\_, Professional Land Surveyor, do hereby certify that the Plat of \_\_\_\_\_ is based on an actual survey and that the distances, courses, and angles are shown thereon correctly and that monuments have been set and lot corners staked on the ground as shown on the plat.

\_\_\_\_\_  
Signature of Land Surveyor

- (d) A certificate of dedication or a separate written instrument which shall include the following:

Know all men by these present that \_\_\_\_\_ do hereby declare this plat and dedicate to the public forever all roads and ways shown hereon together with the right to make all necessary slopes for cuts and fills, and the right to continue to drain said roads and ways over and across any lot or lots, where water might take a natural course, in the original reasonable grading of the roads and ways shown hereon.

Following original reasonable grading of roads and ways hereon, no drainage waters on any lot or lots shall be diverted or blocked from their natural course so as to discharge upon any public road rights-of-way, or to hamper proper road drainage. Any enclosing of drainage waters in culverts or drains or rerouting thereof across any lot as may be undertaken by or for the owner of any lot shall be done by and at the expense of such owner.



In witness whereof, we have hereunto set our hand(s) and seal this \_\_\_\_ day of \_\_\_\_\_ ,  
20\_\_\_\_.

Signed and sealed \_\_\_\_\_

\_\_\_\_\_  
State of Washington }

}ss.

County of Lewis }

This is to certify that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public, personally appeared \_\_\_\_\_ to me known to be the person(s) who executed the foregoing dedication and acknowledged to me that \_\_\_\_\_ signed and sealed the same as \_\_\_\_\_ free and voluntary act and deed for the uses and purposes therein mentioned.

Witness my hand and official seal the day and year last above written.

\_\_\_\_\_  
Notary Public in and for the

State of Washington, residing at

\_\_\_\_\_  
\_\_\_\_\_

(e) The endorsements of the required county officials which shall be as follows, but do not signify acceptance of any improvements of property into county ownership and the county will have no responsibility for their maintenance unless separate agreements to that effect are concluded:

(i) Examined for survey datum, rights-of-way layout, and design of bridges and other structures required by a resolution of approval and approved.

Dated \_\_\_\_\_

County Engineer

(ii) Examined for ability to conform to Lewis County Health District Regulations pertaining to water supply and sewage disposal and approved.

Dated \_\_\_\_\_ Health Officer,  
Lewis County Board of Health

(iii) I certify that all taxes and delinquent assessments for which the property may be liable as of this date have been paid and that deposits as required by law against taxes that may become payable in the year have been made.

Dated \_\_\_\_\_ County Treasurer

(iv) Examined for conformance to the conditions of preliminary plat approval and approved.

Dated \_\_\_\_\_ Community  
Development Dept. Administrator

(v) Examined and approved.

Dated \_\_\_\_\_  
Director of Community Development Dept.

(vi) Filed for record at the request of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ minutes past \_\_\_\_\_  
o'clock \_\_M, and recorded in Volume \_\_\_\_\_ of Plats, on Page \_\_\_\_\_, Records of Lewis County, Washington.

\_\_\_\_\_  
Lewis County Auditor

\_\_\_\_\_  
Deputy Auditor

#### **16.05.250 Surveys.**

(1) Accuracy. A traverse of the boundaries of the subdivision and all lots and blocks shall close within an error of one foot in 5,000 feet.

(2) Orientation of Subdivision. Primary survey control points shall be referenced to section corners and monuments. Corners of adjoining subdivisions or portions thereof shall be identified and ties shown.

(3) Permanent Control Monuments. Permanent control monuments shall be established at:

(a) All angle points on the boundaries of the subdivision;

(b) The intersections of the centerline of all roads within the subdivision;

(c) The beginnings and ends of all curves on centerline;

(d) Monuments shall be of the type shown on the monument and brass plug standard in the Lewis County road standards for urban and rural design.

#### **16.05.260 Improvement agreement.**

(1) Prior to the approval of any final plat, the subdivider shall either install all required improvements and repair any existing streets or other facilities damaged in the development of the subdivision or else execute and file an agreement between himself and Lewis County specifying the period acceptable to the county within which he shall complete all remaining public improvement work to the satisfaction of the county. If he/she shall fail to complete such work within such period, the county may complete the same and recover the full cost and expense thereof from the subdivider or his surety. The agreement shall provide for the inspection of all improvements by the county. Such agreement may also provide for:

(a) The construction of improvements in units;

(b) The extension of time under conditions specified therein;

(c) The termination of the agreement upon the completion of construction of improvements deemed by the county to be at least the equivalent of the improvements specified in such agreement and required to be constructed by the subdivider; and



(d) For progressive remittances to the subdivider for any deposit money which the subdivider may have made in lieu of providing a surety bond, as provided in subsection (2) of this section; providing however, that no such progress payments shall be made for more than 90 percent of the value of any installment of work; and provided, that each installment of work shall be completed to the satisfaction of the county.

**(2) Bonds.**

(a) With the improvement agreement required by this article the subdivider shall submit a performance bond conditioned upon full construction of all required improvements in an amount equal to 125 percent of the estimated costs of said improvements. These estimated costs shall be verified by the county engineer. Said bond shall be executed by a surety company authorized to transact surety business in the state of Washington;

(b) In lieu of a corporate surety, the subdivider may deposit with the county auditor cash or other securities not subject to impairment or discharge in bankruptcy and readily convertible into cash by the county, in an amount fixed by the county engineer at 125 percent of the estimated costs of said improvements.

(3) Monitoring of Improvement Agreements. The administrator shall monitor the progress of all improvement work covered by improvement agreements. Should said work not be completed to the satisfaction of the county prior to expiration, the administrator shall document expiration in file.

(4) Forfeiture of Surety. In the event the subdivider shall fail to complete all improvement work in accordance with the provisions of this chapter and improvement agreement, the county shall complete the same and shall call upon the surety for reimbursement, or appropriate from any deposit funds for reimbursement. If the amount of the surety bond or deposit is less than the costs and expenses incurred by the county, the subdivider shall be liable to the county for the difference.

(5) Release of Surety. No progress payments from such cash deposit or release of surety bond or cash deposit shall be made except upon certification by the county engineer and the administrator that the work covered thereby has been satisfactorily completed and approval by the administrator has been granted.

## **Article VI. Development and Subdivision Design Standards**

### **16.05.270 Access.**

Access to the subdivision entrance shall be by public road.

### **16.05.280 Public roads - Design and construction standards.**

All subdivision streets and roads to become part of the county public road system shall conform to the Lewis County road standards for urban and rural design or any variance granted thereto, as approved by the board, in effect at the time any preliminary plat of the subdivision is submitted for approval.

### **16.05.290 Private roads.**

Private roads shall be allowed in subdivisions when the following criteria are met:

- (1) Location. The road location is approved by the county engineer.
- (2) Construction Specifications. The private roads shall be constructed to no less than those standards for private roads contained in the Lewis County road standards for urban and rural design, as approved by the board by ordinance or resolution, in effect at the time any preliminary plat is submitted for approval.
- (3) Ownership. Private roads within subdivisions shall be owned by a property owner's association and provisions shall be established for their maintenance and repair as specified in LCC 16.05.360.

**16.05.300 Design - Lots.**

- (1) Access. Each lot shall be provided with satisfactory access by means of a public road connecting to an existing public road or by some other legally sufficient right of access which is permanent and inseparable from the lot. Existing forest service roads are not considered suitable access for subdivision purposes unless this provision is waived by the hearing examiner upon the recommendation of the forest supervisor of the appropriate national forest.
- (2) Design. Each lot shall be designed to provide an identifiable feasible building site taken as a rectangle of not less than 1,200 square feet with the narrowest dimension of not less than 16 feet and, if required, an identifiable feasible drainfield area and well location.
- (3) Size. The minimum area of each lot shall be determined as follows:
  - (a) When served by sanitary sewers and community or public water supply the minimum lot size shall be 6,000 square feet;
  - (b) When served by individual septic tanks and drain fields and/or individual water supply, minimum lot sizes shall meet the requirements of the sewage disposal rules and regulations of the Lewis County board of health;
  - (c) When other methods of sewage disposal are used such as a community septic system, minimum lot sizes shall be as recommended by the Lewis County board of health or the Washington State Department of Health. If off-lot location of the community drain field is approved and if there is a public water supply then the minimum lot size provided in subsection (3)(a) of this section can be used.
- (4) Width. The minimum width for each lot as measured between the midpoints of the side lot lines shall be 60 feet.
- (5) Frontage. A minimum road frontage of 30 feet shall be required for each lot.
- (6) Reverse Frontage Lots. No residential lot shall have road frontage along two opposite boundaries unless topographical features or the need to provide separation of lots from traffic arterials, commercial activities, or industrial activities justify the designing of reverse frontage lots. For such lots a strip of land not less than 10 feet wide in addition to any other minimum dimension required herein shall be provided along the lot line adjoining such arterials or other disadvantageous use across which there shall be no right of vehicular access.



(7) Design. All lots shall be of compact design; lot lines shall be straight lines except insofar as they may follow the radius of a road curve and may form a three-, four-, or five- sided figure. No easement for access or unusual features as provided in LCC 16.05.330(2) and (3) shall be permitted to bisect a lot.

(8) Markers. Each lot shall have lot markers made of wood with lettering of lot and block numbers and located to be visible from the road and to be in place prior to final plat approval.

#### **16.05.310 Design - Blocks.**

(1) Length. In general, blocks shall be as long as is reasonably possible, consistent with the topography and the needs of convenient access, circulation, control, and safety of street traffic and the type of land use proposed, but ordinarily block lengths shall not exceed 1,500 feet or be less than 500 feet.

(2) Width. Except for reverse frontage parcels, the width of blocks shall ordinarily be sufficient to allow for two tiers of lots of depths consistent with the type of land use proposed; that is normally not less than 200 feet for the sum of two lot depths.

(3) Super Blocks. For large parcels with access provided by a series of cul-de-sacs or loop streets entering from the periphery and for large parcels platted into half acre and larger lots, the criteria in subsections (1) and (2) of this section shall be disregarded in favor of considerations on an individual basis. Blocks of acreage-type lots shall have block lengths and widths that will lend themselves to later resubdivision in accordance with the standards prescribed in this chapter.

(4) Crosswalks. In industrial and commercial plats, crosswalks of not less than 10 feet in width will be constructed at each intersection of roadways. Crosswalks may be required at the midpoint of any block exceeding 1,000 feet in length where such a crosswalk is deemed essential to provide circulation or pedestrian access to business concerns, schools, playgrounds, shopping centers, and other community facilities. The necessity of such crosswalks shall be left to the discretion of the administrator.

#### **16.05.320 Setbacks.**

The designed provision for any building site within a subdivision shall be in compliance with the requirements of Chapters 15.15 and 17.145 LCC as now or hereafter amended.

#### **16.05.330 Easements.**

(1) Public Utilities. The subdivider shall submit a letter to the administrator from each of the proposed service utilities informing the administrator that the proposed utility construction is adequate and satisfies the needs of both the subdivider and the utility, and is adequate to meet the requirements of the subdivision. The letter shall inform the administrator as to the general construction plan agreed upon between the subdivider and the utility.

(2) Unusual Facilities. Easements for unusual facilities such as high voltage electric transmission lines shall be of such width as is adequate for the purpose, including any necessary maintenance roads.

(3) Watercourses. Where a subdivision is traversed by a watercourse, drainage way, waste way, channel, or stream, there may be required a stormwater easement or drainage right-of-way extending 15 feet landward from the ordinary high water mark and conforming substantially to the line of such watercourse, drainage way, waste way, channel, or stream.

#### **16.05.340 Design and construction standards - Utility installations.**

- (1) Public Water Supply. For connection to existing Group A public water systems, installation shall be to the design and construction standards of the supplying utility. For newly created Group A water systems and Group B water systems, installation shall meet Lewis County and Department of Health standards and specifications.
- (2) Sanitary Sewers. Installation of sanitary sewers shall be to the design and construction standards of the supplying utility.
- (3) Electrical Power, Telephone, Cable Television, and/or Natural Gas. Electrical power and telephone cable shall be provided to each lot. Natural gas and television cable may be required where feasible. Installation shall be to the standards of the supplying utility. Undergrounding shall be required except where determined by the supplying utility not to be feasible.

#### **16.05.350 Fire protection standards.**

- (1) When Required. The installation of fire hydrants and the sizing of water lines for fire flow shall be required for all subdivisions which either create a new Group A public water supply or connect to an existing Group A system.
- (2) Fire Flow Sizing. Water distribution mains on which fire hydrants shall be located shall be sized to the standards specified in a current Insurance Service Office's Guide for Determination of Fire Flow.
- (3) Hydrants. When hydrants are required, the spacing between hydrants shall be determined by the appropriate fire protection agency except in those instances where that agency fails to make such a determination in which case said spacing shall be that specified by a current Washington State Chapter, American Public Works Association Standards and Specifications.
- (4) Ingress - Egress. For subdivisions of 20 units or more, at least two ingress-egress routes may be required by the county fire marshal or fire protection agency.

#### **16.05.360 Maintenance agreements.**

- (1) When Maintenance Agreements Required. Maintenance agreements, in a form approved by the administrator, shall be required for all subdivisions which have private roads, common areas, recreation areas, or utility systems, any of which are jointly owned. These agreements shall be accompanied by a certificate from a private attorney assuring perpetual maintenance of the appropriate property or improvements and shall be submitted prior to final plat approval.
- (2) Minimum Contents and Requirements. All maintenance agreements shall at a minimum provide for the following:
  - (a) Membership of lot owners in a property owner's association established for the maintenance and repair of the appropriate property or improvements;
  - (b) An equitable means of assessment for maintenance or necessary improvement costs;
  - (c) Ownership of all improvements; and
  - (d) Any other matters necessary to guarantee a workable organization.



(3) Encumbrance. Maintenance agreements shall be of record in the office of the Lewis County auditor and shall be referenced by identifying notation on the final plat.

**16.05.370 Flood protection.**

Any subdivision which falls within an area of special flood hazard (100-year frequency floodplain) as identified by the Federal Emergency Management Agency shall comply with all the requirements of the National Flood Insurance Program and Chapter 15.35 LCC.

**16.05.380 Dedications of land for public uses and open space.**

(1) Necessity of Dedications - Public Uses. The burden of proof for the necessity of reservations for public uses shall rest with the agency or individuals deeming it necessary.

(2) When Required. The hearing examiner may require that suitable land be reserved for such public uses as parks, playgrounds, recreation areas, fire stations, schools, or utility facilities, and the preservation of natural features and amenities where such reservations would be appropriate. Such lands shall remain undeveloped for the period of time set by the hearing examiner to permit the affected agency to purchase the land.

(3) General Requirements. Each required reservation shall be suitable in size, dimension, topography, and general character and shall have adequate road access for the particular purposes envisioned. The area shall be shown and marked on the final plat as being reserved for the intended purpose.

**16.05.390 Nonresidential subdivisions.**

(1) A nonresidential subdivision shall be subject to all the requirements of plat approval set forth in this subdivision chapter. A nonresidential subdivision shall be subject to all the requirements of these regulations as well as such additional standards required by the hearing examiner.

(2) In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

(a) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated;

(b) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated;

(c) Special requirements may be imposed by the hearing examiner with respect to street, curb, gutter, and sidewalk design and construction;

(d) Special requirements may be imposed by the hearing examiner with respect to the installation of public utilities, including water, sewer, and stormwater drainage;

(e) Reasonable effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing residential areas and provisions for a noise and sight buffer and a permanently landscaped buffer strip when necessary;

(f) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing residential areas.

#### **Article VII. Clustered Subdivisions**

##### **16.05.400 Standards for clustered development.**

- (1) Clustered subdivisions shall meet the standards in Chapter 16.18 LCC.
- (2) The review process for clustered subdivisions shall be the same as for preliminary and final plats.
- (3) The standards and requirements of this chapter may be modified by the hearing examiner.
- (4) Clustered subdivisions shall have the same standard format as that required for final plats in LCC 16.05.240.

#### **Article VIII. Enforcement and Penalties**

##### **16.05.460 Recording prohibited.**

No map, plat, replat, or plan of a subdivision subject to the provisions of this chapter shall be recorded or received for recording in any public office unless or until that map, plat, replat, or plan shall bear the certified final approval of the administrator.

##### **16.05.470 Permits prohibited.**

No building permit, septic tank permit, or other development permit shall be issued for any lot, tract, or parcel of land divided in violation of this chapter or local regulations adopted pursuant thereto unless the authority to issue such permits finds that the public interest will not be adversely affected thereby. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers' or transferees' property shall comply with the provisions of this chapter and each purchaser or transferee may bring action to recover his damages from any person, firm, corporation, or agent selling or transferring land in violation of this chapter, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this chapter, as well as costs of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser or transferee may, as an alternative to conforming this property to these requirements, bring action to rescind the sale or transfer and recover costs of investigation, suit, and reasonable attorney's fees occasioned thereby. [Ord. 1269 §3, 2016; Ord. 1169, §1,III,QQ, 2000]

##### **16.05.480 Action to restrain violations.**

Whenever any parcel of land is divided into five or more lots, tracts, or parcels of land, and any person, firm, or corporation or any agent of any of them sells, leases, transfers, or offers or advertises for sale, lease, or transfer any such lot, tract, or parcel without having a final plat of such subdivision filed for record, the prosecuting attorney shall commence an action to restrain and enjoin further subdivisions for sale, lease, transfer, or offers for sale, lease, or transfer and compel compliance with all provisions of this article on those lands which previously have been subdivided, sold, leased, transferred, or offered



for sale, lease, or transfer in noncompliance with this chapter. The costs of such action shall be taxed against the person, firm, corporation, or agent selling, leasing, or transferring the property.

**16.05.490 Discontinuance of violation.**

In the enforcement of this chapter, the prosecuting attorney may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter from any person engaging in, or who has engaged in, such action or practice. Any such assurance shall be in writing and be filed with and subject to the approval of the superior court of Lewis County. A violation of such assurance shall constitute a prima facie proof of a violation of this chapter.

**16.05.500 Violation - Penalties.**

Any person who violates any court order or injunction issued pursuant to this chapter shall be subject to a fine of not more than \$5,000 or imprisonment for not more than 90 days or both.

**16.05.510 Criminal penalty.**

Any person, firm, corporation, or association or any agent of any person, firm, corporation, or association who violates any provision of this chapter or any subsequent regulations adopted pursuant thereto relating to the sale, offer for sale, lease, or transfer of any lot, tract, or parcel of land shall be subject to the penalties in RCW 58.17.300.

**16.05.520 Unlawful representations.**

It shall be unlawful for any person, firm, or corporation owning a plat or subdivision of land within the county to represent that any improvement upon any of the streets, alleys, or other public ways of said plat or subdivision has been constructed according to the plans and specifications approved by the county engineer or has been supervised or inspected by the county engineer when such improvement has not been so constructed, supervised, or inspected.

PURPOSE AND GUIDELINES

**Chapter 17.05**  
**GENERAL PROVISIONS**

Sections:

- 17.05.010 Statutory authority.
- 17.05.020 Statement of purpose.
- 17.05.030 Applicability.
- 17.05.040 Project permit application type.
- 17.05.050 Preapplication.
- 17.05.060 Contents of application.
- 17.05.070 Determination of completeness - Lapsed applications - Postponed applications.
- 17.05.080 Notice of application.
- 17.05.090 Vesting of permits.
- 17.05.100 Consolidation of project permit applications.
- 17.05.110 Integration of State Environmental Policy Act (SEPA) review with review of project permit application.
- 17.05.120 Public hearings.
- 17.05.125 Time frames for decisions.
- 17.05.130 Notice of decisions.
- 17.05.140 Duration of decisions.
- 17.05.150 Revocation of approval.
- 17.05.160 Appeals.
- 17.05.170 Administration and interpretation.
- 17.05.180 Fees.
- 17.05.190 Refund of permit fees.

Prior legislation: Ords. 1170B, 1174A, 1175 and 1179.

**17.05.010 Statutory authority.**

The ordinance codified in this title is adopted pursuant to the provisions of Chapter 36.70A RCW, which empowers a county to enact a zoning ordinance and provide for its administration, enforcement, and amendment.

**17.05.020 Statement of purpose.**

The purpose and intent of the title is to further the goals and policies of the Lewis County comprehensive plan by providing the authority for and procedures to be followed in regulating the physical development of Lewis County.

**17.05.030 Applicability.**

(1) Unless otherwise provided, the regulations identified in this chapter shall apply to the following Lewis County Code (LCC) provisions:

- (a) LCC Title 16, Subdivisions;



(b) LCC Title 17, Land Use and Development Regulations; and

(c) All other code sections that refer to this section for administration.

(2) Building permits subject to the State Environmental Policy Act (SEPA) shall follow the procedures of this chapter. Building permits exempt from SEPA shall be subject to the procedures identified within LCC Title 15 and not this chapter.

(3) In the event of a conflict between this chapter and any other applicable process, unless specifically provided otherwise, the director shall, in his or her sole discretion, determine the appropriate regulation, considering the following principles:

(a) State or federal provisions shall apply over local provisions;

(b) Specific provisions shall apply over general provisions; and

(c) Later enacted provisions shall apply over provisions enacted earlier.

**17.05.040 Project permit application type.**

(1) Project permit applications are categorized as one of five types described below. Tables 17.05-1 and 17.05-2 specify various permits that fall within the categories and the methods for processing the various project permits.

(a) Type I applications involve decisions that require little notice which are decided by the administrator.

(b) Type II applications are administrative actions that require notice of application and a notice of decision.

(c) Type III applications are quasi-judicial actions that require an open record hearing and decision before the hearing examiner.

(d) Type IV applications are quasi-judicial actions that require an open record hearing before the hearing examiner and a decision by the Lewis County board of county commissioners.

(e) Type V applications are actions that require a public hearing before the planning commission and a decision by the board of county commissioners.

(i) Project-specific actions include modifications to development regulations, the comprehensive plan, or the zoning map that affect an individual or smaller group of parcels. Project-specific amendments are typically sought by an individual property owner or group of owners for their own benefit. The applications require public notice on the site and for neighbors and a quasi-judicial public hearing before the planning commission.

(ii) Nonproject legislative actions include modifications to development regulations, the comprehensive plan, or zoning map that affect larger groups of parcels. The process for the amendments is articulated in Chapter 17.12 LCC, though noticing requirements are included within this section. Nonproject legislative actions are typically sought by the county to promote a public rather than an individual benefit.

(2) If this chapter does not expressly provide for review using one of the five types of procedures, and another specific procedure is not required by law, the director shall classify the application as one of the five procedural types and it will be processed accordingly. Questions about what procedure is appropriate shall be resolved in favor of the type providing the greatest public notice and opportunity to participate.

**Table 17.05-1**  
**Permit Review Type - Process Chart**

	Type				
	I	II	III	IV	V <sup>1</sup>
<b>REQUIRED PUBLIC NOTICE<sup>2</sup></b>					
Notice Period		At Least 15 Days Before the Decision	At Least 15 Days Before an Open Record Public Hearing		
Mailed Notice		X	X	X	X <sup>3</sup>
Notice Posted on Road Frontages		X	X	X	X <sup>3</sup>
Notice Published in Newspaper			X	X	X
Notice Posted at Libraries and Senior Centers					X
<b>PUBLIC HEARING</b>					
Planning Commission					X
Hearing Examiner			X	X	
<b>DECISION-MAKING BODY</b>					
Administrator	X	X			
Hearing Examiner			X		
Board of County Commissioners				X	X
<b>APPEAL</b>					
To Hearing Examiner (as Specified in LCC <a href="#">2.25.130</a> )	X	X			
To Appropriate Court/Hearings Board (as Defined in LCC <a href="#">2.25.140</a> )			X	X	X

<sup>1</sup> Notice associated with nonproject specific Type V actions may incorporate notice provisions far beyond those shown within the matrix including workshops, press releases, online information, etc. The information shown above for nonproject Type V actions should be considered the absolute minimum necessary to achieve a code or comprehensive plan change.



<sup>2</sup> Notice of SEPA determinations may be combined with other notices, so long as the requirements in WAC [197-11-510](#) and LCC [17.110.170](#) are met.

<sup>3</sup> Notice required on-site and to neighbors when part of a project-specific amendment.

**Table 17.05-2**  
**Process Required for Different Permit Types**

	Type					Code Reference
	I	II	III	IV	V	
<b>Interpretations</b>						
Code Interpretation - Written	X					
<b>Permits and Reviews</b>						
Special Use			X			<a href="#">17.158</a>
Evaluation of Conformance with Special Use Permit			X			
Administrative Approval		X				<a href="#">17.160</a>
Administrative Reduction		X				
Master Plan - Rural Area Uses			X			17.120*
*Code reviser's note: Chapter 17.120 LCC was repealed by Ord. 1292.						
Master Planned Industrial - Binding Site Plan			X			<a href="#">17.20A</a> , <a href="#">17.20B</a>
New Fully Contained Community Urban Growth Area	See Applicable Code Section					<a href="#">17.20D</a>
Master Planned Resort - Binding Site Plan			X			<a href="#">17.20E</a>
SEPA		X <sup>1</sup>				
<b>Nonconforming Use Determination</b>						
Continuation of Nonconforming Use	X					<a href="#">17.155.010</a> <sup>2</sup>
Expansion of a Nonconforming Use			X			<a href="#">17.155.020</a> <sup>2</sup>
Change to Another Nonconforming Use			X			<a href="#">17.155.040</a> <sup>2</sup>
<b>Boundary Line Adjustments and Land Divisions</b>						
Boundary Line Adjustment	X					<a href="#">16.02.040</a> (8)
Subdivision			X			<a href="#">16.05</a>
Short Subdivision	X					<a href="#">16.10</a>
Large Lot Subdivision	X					<a href="#">16.12</a>

**Table 17.05-2**  
**Process Required for Different Permit Types**

Type						
	I	II	III	IV	V	Code Reference
Simple Segregation	X					<u>16.12.500 - 16.12.530</u>
Recreational Vehicle Binding Site Plan			X			<u>16.14</u>
Binding Site Plan			X			<u>16.15</u>
Final Plat	See Applicable Code Section					<u>16.05</u> (Long Plats), <u>16.10</u> (Short Plats), <u>16.12</u> (Large Lots)
Preliminary Plat Alteration/Amendment	See Applicable Code Section					<u>16.05.140</u> (Subdivisions), <u>16.15.070</u> (Binding Site Plan)
Final Plat Alteration/Amendment	See Applicable Code Section					<u>16.02.090</u>
Plat Vacation	See Applicable Code Section					<u>16.02.085</u>
Modifications and Variances						
Administrative Variance	X					
Variance			X			<u>17.162</u>
Land Division Variance			X			<u>16.02.095</u>
Plan and Code Amendments						
Site Specific Rezones/CP Map Amendments					X	
General Legislative Amendments (Zone, CP Text Changes, Nonspecific Site Amendments)					X	<u>17.12</u>
Industrial Land Bank Comprehensive Plan Designation/Establishment of Zoning Criteria					X	<u>17.20A</u>
Master Planned Resort Comprehensive Plan Designation/Establishment of Zoning Criteria					X	<u>17.20E</u>
Resource Land of Local Importance Designation					X	<u>17.30.560, 17.30.670, 17.30.850</u>

<sup>1</sup> SEPA follows the mailing notification of the underlying project permit. No SEPA mailing is required for Type I applications.



<sup>2</sup> These provisions apply, unless otherwise addressed in a resource land or critical areas chapter.

[Ord. 1269 §8, 2016]

#### **17.05.050 Preapplication.**

Applicants may request a preapplication meeting for all applications. The purpose of a preapplication is to conduct a review of the development application prior to submittal to the department. Preapplication review may include a discussion of the requirements for application completeness and review processes, permit or approval requirements, design standards, design alternatives, potential fees, environmental impact avoidance, other required permits, or other general development issues and questions from the applicant. To expedite development review, the department may invite all affected jurisdictions, agencies and/or special purpose districts to the preapplication meeting. [Ord. 1269 §8, 2016]

#### **17.05.060 Contents of application.**

(1) Except as provided elsewhere in this code, the department shall establish and may revise written submittal requirements for each type of project permit application required by this title. The department shall prescribe checklist forms, which shall clearly describe the material that must be submitted for an application to be accepted for processing.

(2) At minimum, a project permit application and any supplemental application shall include the following:

- (a) A completed original project application form signed by the owner(s) of the property which is the subject of the application;
- (b) A completed original supplemental application form;
- (c) Parcel identification number;
- (d) A copy of the preapplication meeting summary, if applicable;
- (e) The applicable fee(s) adopted in LCC Title 18 for the application(s);
- (f) If applicable, a State Environmental Policy Act Environmental Checklist;
- (g) Permit-specific information required by submittal checklists distributed by the department in accordance with this section, or other relevant sections of Lewis County Code; and
- (h) Any additional information, identified by the review authority needed to provide the department with sufficient information about the proposed project.

#### **17.05.070 Determination of completeness - Lapsed applications - Postponed applications.**

(1) Within 28 calendar days after receiving a project permit application, the department shall mail, electronically mail, or provide in person a written determination to the applicant, stating that either:

- (a) The application is complete.
- (b) The application is incomplete and what is necessary to make the application complete.

(2) Incomplete or Incorrect Applications. When an application is determined to be incomplete or incorrect, the review authority shall identify, in writing, the specific requirements or information necessary to constitute a complete application.

(a) When additional information is required, the applicant shall have 90 calendar days from the date of the written notification of incompleteness to submit the required information to the department. If the applicant does not submit the required information within the 90-day period, the project permit application shall automatically lapse.

(b) Prior to the lapse date, the applicant may request, in writing, an extension in order to provide the required information. The review authority may grant up to two three-month extensions if it is determined that the required studies or information warrants additional time. Financial hardship shall not be considered for extensions of deadlines.

(c) Upon submittal of the additional information, the review authority shall, within fourteen calendar days, issue a letter of completeness or, in accordance with subsection (2)(a) of this section, identify what additional information is required.

(d) Lapsed applications will not be further processed; however, they may be resubmitted as a new application with the submittal of full fees. Resubmittal of lapsed applications shall be governed by the regulations in effect at the time of the resubmittal.

(3) When an application is deemed complete, the review authority shall:

(a) Forward the application(s) for processing and the scheduling of a public hearing, if a hearing is required;

(b) Send a written notice to the applicant that acknowledges the completeness of the application, states the vesting date when applicable, lists the name and telephone number of a department contact person, and describes the expected review schedule, including the date of a hearing, if applicable; and

(c) Provide notice of the application, in accordance with LCC 17.05.080.

(4) The determination of completeness does not preclude the review authority from requesting additional information or studies either at the time of the notice of completeness or afterward if new information becomes required or if there are changes in the proposed project.

**17.05.080 Notice of application.**

(1) Timing. Within 14 days of issuing a letter of completeness under LCC 17.05.070, the county shall issue a notice of application for all applications that require public notice per Table 17.05-1. The notice of application and the SEPA threshold determination shall be issued at least 15 days prior to the date of a decision or a public hearing.

(2) Content. The notice shall be dated and shall include, but not be limited to, the information required in RCW 36.70B.110(2) as hereafter amended.

(3) Distribution.

(a) Mailing. The director shall mail a copy of notices of application and hearings to:



(i) The applicant and the applicant's representative. Electronic mailing may be used.

(ii) Owners of property within a radius of 500 feet of the property which is the subject of the application; provided, that an expanded radius shall be required for master planned industrial developments per RCW 36.70A.367(3)(k).

(A) The department shall use the records of the Lewis County assessor's office for determining the address of all of the owner(s) of record within the appropriate radius.

(B) The failure of a property owner to receive notice shall not affect the decision if the notice was sent in accordance with this subsection. A certificate or affidavit of mailing shall be evidence that notice was properly mailed to parties listed or referenced in the certificate.

(iii) County departments, and agencies with jurisdiction, including tribal governments.

(iv) Community groups or local governments that the administrator may identify as having an interest in the proposal.

(v) Other persons who request such notice in writing.

(b) Publication. When required per Table 17.05-1, the department shall publish a summary of the notice in a newspaper of general circulation, including the date, time and place of the proposed hearing, the nature and location of the proposal and instructions for obtaining further information.

(c) Posting. When required per Table 17.05-1, the department shall place a notice sign(s) on the project site that is clearly visible and readily readable from each right-of-way that provides primary vehicular access to the subject property. The county shall remove and properly dispose of the notices after a decision on the project.

(i) At minimum, the public notice signs shall state the nature and location of the proposal; instructions for obtaining further information; and, if applicable, the date, time, and place of the public hearing.

(ii) At least two days before any hearing, the person responsible for posting the sign shall execute and submit an affidavit to the review authority certifying where and when the sign notices were posted.

(d) For notices that are required to be mailed pursuant to this chapter, the department may substitute a postcard notification that includes a short summary of information and provides the recipient with instructions regarding obtaining a complete notice either electronically or in person.

#### **17.05.090 Vesting of permits.**

(1) Project Permit Applications Submitted After the Effective Date.

(a) A project permit application submitted after the effective date of the ordinance codified in this section shall be vested under the zoning and land use regulations in effect at the time of complete application.

(b) If the county has notified the applicant that the application is incomplete, the application shall not be deemed vested until the date the county notifies the applicant that the application is complete.

(c) Future building permits shall be subject to the building codes in effect at the time of the complete building permit application.

(2) Additional Provisions.

(a) Nothing herein shall restrict the county's authority to impose conditions on project permits pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW and WAC 197-11-600.

(b) Nothing herein shall be construed to restrict the county's ability, to the extent otherwise permitted by law, to apply new regulations to a project permit or project permit application.

**17.05.100 Consolidation of project permit applications.**

(1) Consolidation. Whenever possible, the department shall consolidate review for all project permit applications related to the same proposal to provide an integrated process and avoid duplication. Consolidated permit processing should generally follow the review, approval process and time frame of the highest numbered permit type represented among the consolidated permits, except that processing may be halted as needed for lower permit types when waiting on higher type permit review steps or actions. Type V is considered the highest and Type I is considered the lowest.

(2) Applicant to Request Individual Review. Applicants may request individual review of project applications that otherwise would be consolidated. Processing such a request will occur at the discretion of the administrator.

(3) Combined Public Meetings or Open Record Hearings. A public meeting or open record hearing required by this chapter may be combined with any public meeting or open record hearing that may be held on the project by another local, state, regional, federal, or other agency, in accordance with the provisions of Chapter 36.70B RCW.

**17.05.110 Integration of State Environmental Policy Act (SEPA) review with review of project permit application.**

(1) Project permit applications and planned actions subject to the provisions of SEPA, Chapter 43.21C RCW, shall be reviewed in accordance with the policies and procedures contained in Chapter 17.110 LCC and Chapter 197-11 WAC.

(2) To the maximum extent possible, SEPA review shall be combined and integrated in all project permit application processing.

**17.05.120 Public hearings.**

(1) No more than one open record public hearing shall be conducted for each project application, unless the application has been individually reviewed subject to LCC 17.05.100 or has been submitted as separate project permits.

(2) All hearing examiner hearings shall be conducted in accordance with LCC 2.25.120.

(3) All nonproject specific Type V permits shall follow the public workshop and hearing procedures in Chapter 17.12 LCC.



(4) All hearings for project specific Type V permits shall follow procedures similar to those articulated in LCC 17.12.050(2); provided, that the hearing shall be a quasi-judicial hearing rather than a legislative hearing.

**17.05.125 Time frames for decisions.**

(1) Decisions for permits in Table 17.05-2, other than plats, shall be issued within 120 days of a complete application.

(2) Decisions on plats shall be issued in within the following number of days from a complete application:

(a) Ninety days for long plats.

(b) Thirty days for short plats.

(c) Thirty days for final plats.

(3) When the time frames above have or will be exceeded, staff shall send a letter to the applicant explaining why no decision on the proposal has been made. This letter should include a description of the estimated time frame necessary for the completion of the application, and be completed as early as possible before the conclusion of the time period.

(4) Exceptions. Exceptions to the time limits for a final decision include:

(a) Project permit application decisions that are dependent upon amendments to the comprehensive plan or development regulations, in which case the amendment shall be processed first;

(b) Any time required for the applicant to correct plans, perform studies, or provide additional required information;

(c) Cases when significant project revisions have been made or requested by the applicant, which do not constitute new applications, in which case the time period will be calculated from the time that the department determines the revised application to be complete;

(d) Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW;

(e) Projects involving the siting of essential public facilities;

(f) Any remand to the public hearing body in Table 17.05-1 by the decision-making body; or

(g) Instances where an applicant has requested individual review of the application pursuant to LCC 17.05.100(2).

**17.05.130 Notice of decisions.**

(1) Timing. Whenever a final decision has been made that requires a notice of decision, the review authority shall issue the notice within seven days of the final decision.

(2) Content. The notice of decision shall include, at a minimum, the following information:

(a) The decision on the project permit application.

(b) Any SEPA threshold determination made pursuant to Chapter 43.21C RCW.

(c) The procedure for appeal, if any.

(d) A statement that the complete case file, including findings, conclusions and any conditions of approval, is available for review. The statement shall list the place, days and times when the case file is available and the name and telephone number of the department representative to contact about reviewing the file.

(e) The notice of decision may be a copy of the report or decision, if such report or decision contains the information required in this subsection (2).

(3) Distribution. The notice of decision shall be mailed to the following:

(a) The applicant.

(b) Any parties of record.

(c) Any agencies with jurisdiction over the project permit application or any agencies that commented on the project permit or legislative application.

(4) Exemptions. A notice of decision shall not be required for any project or legislative permit that does not require a notice of application.

**17.05.140 Duration of decisions.**

(1) Duration of Approval.

(a) All project permit approvals shall be valid for a period of three years, after which they shall automatically expire, unless otherwise stated.

(b) Preliminary approval of land divisions shall be valid for the period specified in RCW 58.17.140, after which it shall expire. Prior to expiration, a complete application for final plat approval meeting all the legal requirements and conditions of approval shall be made.

(c) Site development activity permits shall be subject to the duration and extension requirements set forth elsewhere within the code.

(2) Extensions.

(a) Phased Development Extensions. Type III and Type IV applications specifically and expressly approved for phased development may receive multiple two-year extensions from the phasing schedule in accordance with the criteria in subsection (2)(c) of this section, so long as at least one phase was given final approval within the two years prior to each such subsequent extension request. The first extension shall be processed as a Type I application; subsequent extensions shall be processed as a Type II application.

(b) Nonphased Development Extensions. Applications specifically approved for development may receive one one-year extension in accordance with the criteria in subsection (2)(c) of this section.



(c) Criteria for Extensions. The director may approve, approve with conditions, or deny any timely request for an extension based on the review of the following criteria. Extensions shall be processed as a Type I application.

(i) The extension request is submitted in writing at least 30 calendar days prior to the expiration of the permit or any prior extension approval;

(ii) The director finds there are no significant concerns presented with a granting of an extension, or those concerns can be adequately mitigated by minor revisions to the original approval;

(iii) The director finds that there is tangible progress being made; and

(iv) The director finds there are no significant changes in conditions which would render approval of the extension contrary to the public health, safety or general welfare.

(3) Effect of Expiration. Once a permit is expired, it cannot be used to support further development. New applications shall be subject to the regulations in effect at the time of the submittal of the application.

(4) Permit Denials. If a project permit application is denied, the department shall not accept a new application for substantially the same matter within one year from the date of the final county action denying the prior application, unless the denial was without prejudice, or in the opinion of the director, new evidence is submitted or conditions have changed to an extent that further consideration is warranted.

#### **17.05.150 Revocation of approval.**

(1) Any approval granted in accordance with the procedures of this chapter may be revoked if any one or more of the following grounds are established:

(a) The approval or permit was obtained by fraud.

(b) The use for which such approval or permit was granted is not being executed.

(c) The approval or permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval or permit, or in violation of any statute, resolution, code, law or regulation.

(d) The use for which the approval or permit was granted was so exercised as to be detrimental to the public health or safety, or to constitute a nuisance.

(2) The hearing examiner shall hold a hearing on any proposed revocation after giving written notice to the permittee and/or owners of property consistent with LCC 17.05.080.

#### **17.05.160 Appeals.**

(1) Appeals of Type I, II, III and IV proposals shall occur in accordance with the appropriate portion of LCC 2.25.130 or 2.25.140.

(2) Appeals of Type V proposals shall occur pursuant to Chapter 36.70A RCW.

#### **17.05.170 Administration and interpretation.**

(1) Authority. Except as otherwise stated, the director is responsible for administering and interpreting the provisions of this title and those titles listed in LCC 17.05.030, as well as Lewis County county-wide planning policies, and Lewis County comprehensive plan. However, approval authority rests with various entities based on permit type, as identified in Table 17.05-1.

(2) Third Party Review. At any point during review of an application, the department may require, or the applicant may request, third party review in cases where additional professional or technical expertise is required due to scale or complexity and/or in cases where independent review is deemed necessary. All third party review shall occur at the applicant's expense.

(3) Interpretation.

(a) Director's Administrative Interpretation. The director may initiate a code interpretation whenever necessary and the interpretation will be made available pursuant to this chapter.

(b) Director's Informal Interpretation. The director may respond to informal inquiries from the public regarding code provisions in terms of applicability and interpretation prior to and outside of the context of a specific project permit application. These requests are neither subject to appeal nor binding on the department.

(c) Director's Formal Interpretation. Any person(s) may submit a formal request for a code interpretation from the director and the interpretation will be made available by the department pursuant to this chapter. Formal director interpretations are Type I applications and may be appealed. A fee based on LCC Title 18 shall be assessed.

(d) Permanent Record. All code interpretations and hearing examiner decisions on such interpretations shall be retained by the department. Further, they may be prioritized and considered in the next applicable code update. Code interpretations shall be made available to the public and available for inspection.

#### **17.05.180 Fees.**

The Lewis County schedule of fees is established by local resolution on file with the board of county commissioners and codified under LCC Title 18. [Ord. 1269 §8, 2016]

#### **17.05.190 Refund of permit fees.**

Refunds for permits subject to this chapter shall occur in accordance with the Lewis County schedule of fees established by local resolution on file with the board of county commissioners and codified under LCC Title 18.



## **Chapter 2.25 HEARING EXAMINER**

### **Sections:**

- 2.25.010 Definitions.**
- 2.25.020 Appointment.**
- 2.25.030 Qualifications.**
- 2.25.040 Term.**
- 2.25.050 Report to the board and board of health.**
- 2.25.060 Removal.**
- 2.25.070 Standards of conduct—Conflicts.**
- 2.25.080 Powers.**
- 2.25.090 Duties.**
- 2.25.100 Master, project permit applications.**
- 2.25.110 Administrative SEPA appeals.**
- 2.25.120 Procedures for substantive hearings.**
- 2.25.130 Appeals with the examiner.**
- 2.25.140 Appeals from the examiner.**

### **2.25.010 Definitions.**

As used in this chapter, unless the context or subject matter clearly requires otherwise, words shall be given the meaning attributed to them by this section. The term "shall" is always mandatory and the word "may" indicates a use of discretion in making a decision. Words not specifically defined herein shall be defined by the most recent edition of the American Heritage Dictionary of the office of the Lewis County board of commissioners.

- (1) "Board" means the Lewis County board of commissioners.
- (2) "Board of Health" means the Lewis County board of health.
- (3) "Closed record appeal" means an administrative appeal on the record, following an open record evidentiary hearing on a matter, with the appeal being on the record with no or limited new evidence or information allowed to be submitted and only appeal argument being allowed.
- (3) "County" means Lewis County, Washington.
- (4) "Department" means the Lewis County departments of public works, community development or health & social services.
- (5) "Examiner" shall mean the hearing examiner for the county of Lewis or a deputy thereof.
- (6) "Land use decision" shall include matters involving application for a master project permit or other county approval required by law before real property may be improved, developed, modified, sold, transferred, or used, but excluding applications for permits or approvals to use, vacate, or transfer streets, parks, and similar types of public property; excluding applications for legislative approvals such as area-wide rezones and annexations, excluding ministerial issuance of permits, approvals and

exemptions and excluding applications for business licenses; an interpretative or declaratory decision regarding the application to a specific property of zoning or other ordinances or rules regulating the improvement, development, modification, maintenance, or use of real property; and the enforcement of regarding the application to a specific property of zoning or other code sections, ordinances or rules regulating the code sections and ordinances regulating the improvement, development, modification, maintenance, or use of real property.

(7) "Master project application", for purposes of this chapter, shall include any land use or environmental permit or license required from the county for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area code sections, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations, except as specified by statute.

(8) "Open record hearing" means a hearing, conducted by the examiner, that creates the official administrative record through testimony and submission of evidence and information, under procedures prescribed by the Examiner and this chapter. An open record hearing may be held prior to a 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 hearing nor predecision hearing has been held.

(9) "Party of record" shall mean for each application or appeal: (a) the applicant/appellant; (b) all persons who testified at the public hearing; (c) all persons who individually submitted written comments concerning the specific matter to the responsible county department or hearing body prior to the close of the hearing (excluding persons who have only signed petitions and opinion letters, or mechanically produced form letters); and (d) all persons who specifically request notice of a decision by personally entering their name and mailing address on a register provided for such purpose at the public hearing; provided, that a person who becomes a party of record shall remain such through subsequent county proceedings involving the same application or appeal, except that the county may cease mailing notice and other materials to any party of record whose mail is returned by the postal service as undeliverable or no longer subject to automatic forwarding.

(10) "Project permit" or "project permit application" means any land use or environmental permit or license required from the county for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area and resource lands ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations, except as otherwise specified within this code. [Ord. 1157 & 1160, 1998; Ord. 1147 § 1.00, 1995; H96-0304 § 1.01, 1996]

## **2.25.020 Appointment.**

The board shall appoint the Lewis County hearing examiner after solicitation and consideration of recommendations from elected officials of Lewis County, the Lewis County planning commission and the prosecutor, and consideration of such other recommendations as the board may deem useful and



necessary. The board may also appoint deputy hearing examiners as in the public interest after consideration of recommendations from the hearing examiner.

(1) The board, without solicitation and consideration of the above noted recommendations, may temporarily appoint an examiner pro tem to serve in the event of absence or inability to act of the examiner and deputy examiners. Such appointment shall be in writing and adopted by the board.

(2) Each deputy examiner shall have the same power in all respects as their principal. Such appointment shall be in writing and adopted by the board.

(3) The board, or the examiner upon approval of the board, may appoint one or more special deputy examiners upon a contract or fee basis whose authority shall be limited to the term and purposes stated in the writing signed by the board.

(a) For all proceedings subject to Chapter 17.15 LCC involving lands within the urban growth boundary (UGA) of any municipality and subject to an interlocal agreement empowering the respective municipality with land use decision making, and regulatory authority within its UGA, a special deputy examiner(s) shall be appointed, as herein provided for, to hear all matters associated therewith. [Ord. 1147A §1, 2003; Ord. 1157, 1998; Ord. 1147 § 2.01.01, 1995; H96-0304 § 2.01.01, 1996]

#### **2.25.030 Qualifications.**

The hearing examiner shall be appointed with regard to the appointee's qualifications for the duties of the office, and shall have prior training and experience in the field of administrative and quasi-judicial hearings, regulatory enactments, and statutory interpretation and application. [Ord. 1157 & 1160, 1998; Ord. 1147 § 2.01.02, 1995; H96-0304 § 2.01.01, 1996]

#### **2.25.040 Term.**

In all appointments of examiner, examiner pro tem, deputy and special deputy examiners, the terms shall initially be for not more than one year and as set by the board, with appointment terms thereafter for the examiner of three years, subject to review and approval by the board prior to the date of each reappointment. [Ord. 1157, 1998; Ord. 1147 § 2.01.03, 1995; H96-0304 § 2.01.01, 1996]

#### **2.25.050 Report to the board and board of health.**

The examiner shall annually report in writing to the board for the purpose of reviewing the administration of county planning, building and other regulating code sections, ordinances and policies, and shall report in writing to the board of health, upon request, for the purpose of reviewing the administration of health, safety and regulating health ordinances and policies. The examiner and shall meet with the board and county department heads at the request of the board, and with the involving matters of the office, and shall meet with the board of health and county health officials at the request of the board of health, involving matters of the office. The written report shall include a summary of examiner decisions during the preceding annual period, including the nature of the decisions and their particulars. [Ord. 1157 & 1160, 1998; 1147 § 2.01.04, 1995; H96-0304 § 2.01.02, 1996]

#### **2.25.060 Removal.**

An examiner may be removed from office for cause by majority vote of the board.

(1) An examiner pro tem shall answer to the board and, unless otherwise agreed to between the board and appointee, the board may revoke the appointment of the examiner pro tem at will.

(2) The hearing examiner shall be responsible for the acts of deputy and special deputy examiners and, upon prior notice to the board and unless otherwise agreed to between the board and appointee, may revoke such appointments at will. [Ord. 1157, 1998; Ord. 1147 § 2.02, 1995; H96-0304 § 2.01.02, 1996]

#### **2.25.070 Standards of conduct—Conflicts.**

(1) No person, including county officials, elective or appointive, shall attempt to influence the examiner or deputy examiner in any matter there before pending, except at a public hearing duly called for such purpose, nor shall interfere with such examiner in the performance of his or her duties in any other way; except that an official or employee of the county may, in the performance of official duties, provide information to an examiner when such action is thereafter disclosed prior to the use of such information at public hearings or meetings; provided, that this section does not prohibit the prosecuting attorney from rendering legal services to an examiner, when such services are not otherwise prohibited at law or by conflict.

(2) No examiner shall conduct or participate in any hearing or decision in which the examiner shall have a direct or indirect financial or personal interest, or has had significant prehearing contacts with proponents or opponents, or in which such conduct or participation shall violate any applicable rule of law. [Ord. 1157, 1998; Ord. 1147 § 2.03, 1995]

#### **2.25.080 Powers.**

(1) The hearing examiner shall have the authority to:

(a) Receive and examine available information;

(b) Conduct public hearings and prepare a record thereof;

(c) Administer oaths and affirmations;

(d) Examine witnesses; provided, that no person shall be compelled to divulge information which he or she could not be compelled to divulge in a court of law in civil litigation matters;

(e) Regulate the course of the hearing;

(f) Make and enter decisions;

(g) Hold conferences for settlement and prehearing matters;

(h) Dispose of procedural requests and similar hearing and prehearing matters;

(i) Issue summary orders as provided for under LCC 2.25.120 through 2.25.140; and

(j) Take such other action authorized or necessary to carry out this chapter.

(2) The above powers may be exercised on all matters for which jurisdiction is assigned either by county code sections, ordinance or, where appropriate, by other legal action of the county or its elected officials. [Ord. 1157, 1998; Ord. 1147 § 3.01, 1995; H96-0304 § 3.01, 1996]



## **2.25.090 Duties.**

The examiner shall hear, make a record of, and decide matters provided in this chapter or other county code sections and ordinances.

(1) These duties for board matters include, but are not limited to, adjudication or review of all land use decisions, and the following specific matters:

- (a) Matters prescribed by short subdivision/short plat and subdivision code sections;
- (b) ~~Review of preliminary~~ Preliminary plats and modifications pursuant to RCW 58.17.330 and Title 16 and 17 LCC, which shall constitute final decisions subject to the appeal provisions; ~~thereto, to serve as recommendations to the board of county commissioners;~~
- (c) Preliminary plat extension requests pursuant to RCW 58.17.140 and county code section, which shall constitute final decisions subject to the appeal provisions;
- (d) Plat vacations or amendments pursuant to Chapter 58.17 RCW, which shall constitute final decisions subject to the appeal provisions;
- (e) Hearings under Chapter 43.21C RCW, State Environmental Protection Act (SEPA) and code sections thereto; and
- (f) Hearings of Chapter 17.20 LCC, Shoreline Management.
- (g) For all proceedings subject to Chapter 17.15 LCC involving lands within the urban growth boundary (UGA) of any municipality and subject to an interlocal agreement empowering the respective municipality with land use decision making and regulatory authority within its UGA, a special deputy examiner(s) shall hear all matters associated therewith.

(2) These duties for board of health matters include, but are not limited to, adjudication or review of all health ordinances of the board of health, and the following specific matters:

- (a) Conduct adjudicative proceedings and appeals on matters prescribed by solid waste rules and regulations;
- (b) Conduct adjudicative proceedings and appeals on matters prescribed by sewage system rules and regulations, consistent with Chs. 43.70 & 34.05 RCW, and Ch. 246-10 WAC, as amended;
- (c) Conduct food services sanitation appeals under H94-0304(6)(D) and WAC 246-215-220, as amended; and
- (d) Any such other quasi-judicial or appellate jurisdiction hereinafter created by adoption, application or amendment of said state and board of health regulations;

(3) Except as otherwise provided, an examiner's decision shall be final and conclusive, and may be reviewable as specified within this chapter, or within any other county code section, or statute or regulation to such other administrative appellate board or court of competent jurisdiction, as shall thereto be applicable.

(4) In computing any period of time prescribed hereunder, the day of the action from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or a county legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or county legal holiday. [Ord. 1147A §2, 2003; Ord. 1157 & 1160, 1998; 1147 §3.02, 3.03, 1995; H96-0304 §3.02, 1996]

#### **2.25.100 Master, project permit applications.**

Any persons proposing an action or project which requires more than one of the permits, at both state and local levels, approvals or reviews listed in LCC 2.25.090 may submit a master, project permit application to the department on forms furnished by the department containing all necessary information for all project permits. The master application shall thereafter be processed by the examiner, in conjunction with the department and other appropriate county and state departments, and subject to the longest time limitations applicable to any of the required permits, approvals or review thereunder. If any of the required approvals constitute a recommendation to the board, the decision of the examiner as to all such permits, approvals and reviews shall constitute a recommendation to the board; otherwise, the decision of the examiner shall be final and subject to appeal under this chapter. [Ord. 1157 & 1160, 1998; Ord. 1147 § 3.03, 1995]

#### **2.25.110 Administrative SEPA appeals.**

Administrative SEPA appeals involving procedural issues (e.g., the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement) or substantive determinations under SEPA shall be consolidated with any appeal before the examiner on the underlying governmental action. [Ord. 1157, 1998; Ord. 1147 § 3.04, 1995]

#### **2.25.120 Procedures for substantive hearings.**

The examiner shall implement procedural rules for the conduct of hearings of substantive matters and other procedural matters related to the duties of the office in accordance with state law and county code section.

(1) Where a public hearing is required by statute, code section or ordinance, the examiner shall hold at least one open record public hearing prior to any rendering of a decision on such matter. All testimony at any such hearing shall be taken under oath. Notice of the time and place of the open record public hearing shall be given as required by statute and county code section. At the commencement of the hearing, the examiner shall give oral notice of the opportunity to become a party of record.

(2) Each person participating at a public hearing with an examiner shall have the following rights, among others:

(a) To call, examine and cross-examine witnesses (subject to content and time limitations set by the examiner in accordance with the examiner's rules of procedure) on any matter relevant to the issues of the hearing;

(b) To introduce documentary and physical evidence on any matter relevant to the issues of the hearing;

(c) To rebut evidence against him/herself; and



(d) To represent him/herself or to be represented by a lawyer licensed in Washington at his/her own expense.

(3) Where no specific provision for a report of the department or other county departments is contained within the statute, code section or ordinance governing such hearings, the department and other county departments may coordinate and assemble the reviews of other county/city departments, other state or local governmental agencies and franchised public utilities having an interest in the subject matter and prepare a report summarizing the matter involved and the department's or departments' findings and recommendations. At least seven calendar days prior to the scheduled hearing date, such report shall be filed with the examiner and copies thereof made available for public inspection and purchase.

(4) (a) Within 10 calendar days of the conclusion of the hearing, unless a longer period by written finding is determined to be necessary, the examiner shall render a written decision which shall include findings of fact and conclusions based on the record. Except as stated under LCC 2.25.090 and 2.25.100 as to recommendation matters, or under statute or other county code section, the decision of the examiner shall be final and conclusive on the fifteenth day after the date of execution of the decision unless a petition for review is filed pursuant to LCC 2.25.130. Appeals of the hearing examiner's decision shall be made by closed record appeal to an examiner, or as an open record appeal when required in LCC 2.25.130. The examiner's decision together with his findings, conclusions, and the record and exhibits of the proceedings shall be filed with the department or in the alternative with the appropriate department or official. If the effect of the decision is a recommendation to the board, the original thereof shall be transmitted to the legislative body.

(b) The decision of the examiner may grant, grant in part, return to the applicant for modification, deny without prejudice, deny or grant with conditions, modifications and restrictions as the examiner finds necessary to make the application compatible with statutory, and county and board of health policies, objectives, comprehensive planning and regulations.

(5) Unless different procedures are prescribed by statute or county code section, the department, or in the alternative the appropriate department or official, shall mail copies of the examiner's decision to the applicant by certified mail and to all other parties of record by regular mail on the date of issuance of the decision by the examiner.

(6) (a) Any party of record or department or official of the county may file a written petition for reconsideration with the examiner within 10 calendar days following the date of entry of the examiner's decision. Timely filing of a petition for reconsideration shall stay the effective date of the examiner's decision until such time as the petition has been disposed of by the examiner. The grounds for seeking reconsideration shall be limited to the following:

(i) The examiner exceeded his jurisdiction;

(ii) The examiner failed to follow the applicable procedure in reaching a decision;

(iii) The examiner committed an error of law or misinterpreted the applicable statute, county code section, ordinance or resolution, law or regulation;

(iv) The examiner's findings, conclusions or conditions are not supported by the record;



(v) Newly discovered evidence alleged as material to the examiner's decision which could not reasonably have been produced at the hearing; and

(vi) Changes to the application proposed by the applicant in response to deficiencies identified at hearing.

(b) The petition for reconsideration shall contain: specific identification of the hearing and parties involved in the order, permit, decision, determination or other action being petitioned for reconsideration (including the county's file and application number where applicable); the specific findings, conclusions, actions and conditions upon which the petitioner relies for reconsideration, including a concise statement of the factual reason for reconsideration and, as applicable, the identity and specific nature of the newly discovered evidence and its importance in the reconsideration proposed by the petitioner (in the case of reconsideration involving SEPA, shorelines and floodway hazard permits, a specific listing must be made of the sections and elements addressed by the decision); the full name, mailing address, daytime telephone number of each petitioner, together with the signature of at least one of the petitioners, or the attorney for the petitioner(s), if any. The party(s) filing a petition for reconsideration shall certify the service of a true copy of the same upon the department, the applicant and all parties of record by regular mail in conjunction with said filing.

(c) The petition will have been deemed denied if one of the following actions has not been taken within 10 calendar days following receipt of the petition. The examiner may by written order:

(i) Deny the petition;

(ii) Grant the petition and issue an amended decision, as provided for above;

(iii) Grant the petition and give all parties of record notice of the petition and an opportunity to submit written testimony or argument within 10 calendar days;

(iv) Grant the petition and set the matter for further hearing to occur within 10 calendar days unless the examiner notices the parties by written finding that an extended hearing date setting is needed, to consider new testimony, proposed changes in the applications or to hear oral argument of the parties. Notice of such public hearing shall be mailed by regular mail to all parties of record on the same date as issuance of the examiner decision to grant the reconsideration hearing. A decision on reconsideration following such hearing shall be mailed to the applicant by certified mail, and to all other parties of record by regular mail not later than three working days following the hearing. Only the original decision of the examiner may be subject to reconsideration, and the examiner may consolidate for action, in part or in whole, multiple petitions for reconsideration of that original decision. [Ord. 1174A § 7, 2001; Ord. 1174, §7, 2000; Ord. 1157 & 1160, 1998; 1147 § 4.01, 1995; H96-0304 § 4.01, 1996]

#### **2.25.130 Appeals with the examiner.**

Administrative appeals over which the examiner has jurisdiction, unless otherwise specifically provided for by county code section, shall be subject to the following procedural requirements:

(1) (a) Appeals shall be addressed to the hearing examiner, shall be filed within 10 calendar days of the date of the action being appealed, and shall be accompanied by a filing fee of \$100.00 unless a different fee is otherwise specified for such appeal in the annual schedule of fees, in which case the latter shall control. To appeal an action taken by a department of the board of county commissioners, the appeal



shall be filed with the director of the department. To appeal an action taken by the board of health or its subordinate, the appeal shall be filed with the director of the department of public health and social services. A land use decision appeal and a board of health appeal may be consolidated by an examiner, on its own motion or motion of a party, on any appeal involving the same subject property or matter, or case or controversy, with such appeal singularly being heard before the examiner. The filing fee shall not be charged to any department or official of the county nor to other than the first-in-time petitioner. In the event that an appeal or said party to an appeal is dismissed for procedural defect prior to submission of the matter to the examiner, such as but not limited to untimely filing, lack of standing or other facial defect, such filing fee shall be refunded and the next-in-time filing party, where applicable, shall be assessed the filing fee. The failure of the appropriate next-in-time party to pay the filing fee within 10 calendar days of notice, as stated in subsection (1)(b) of this section, shall result in waiver of appellate rights by that party, as stated in subsection (2) of this section, and each nonpaying, next-in-time party in succession thereafter from the appeal.

(b) At the time of filing the appeal, a petitioner may request a waiver of the filing fee based upon economic hardship. The permittee must provide sufficient written evidence to support a claim of economic hardship in conjunction with such request for a fee waiver. The factors the examiner may consider as to whether a petitioner faces economic hardship include, but are not limited to, financial or personal distress of the permittee. A written decision granting or denying fee waiver shall be mailed by the examiner to petitioner (and in conjunction with the mailing of any notice of correction or completion, noted below). The examiner may allow not more than 10 calendar days after mailing of the decision denying fee waiver in which to receive the filing fee to perfect the appeal. The decision of the examiner is final for purposes of such determinations.

(2) (a) A written petition for appeal must contain the items set forth in this section in order to be complete and perfected, and the party appealing the decision designated as "petitioner." The examiner shall immediately examine the petition for completeness and shall immediately notify the petitioner by mail of defects in the petition requiring correction or completion. The examiner may allow not more than 10 calendar days after mailing of notification of defect in which to receive a perfected appeal for filing. A petition for appeal shall contain all of the following:

(i) Specific identification of the order, permit, decision, determination or other action being appealed (including the county's file or application number where applicable). A complete copy of the document or written decision being appealed must be filed with the appeal;

(ii) Specific identification of the county code provision which authorizes the appeal;

(iii) The specific grounds upon which the petitioner relies, including a concise statement of the factual reason for the appeal and, if known, identification of the policies, statutes, codes, or regulations that the petitioner claims are violated. In the case of appeals involving SEPA, shorelines and floodway hazard permits, a specific listing of the sections and elements alleged to be inadequately or inappropriately addressed and the reasons therefor shall be included;

(iv) The full name, mailing address, daytime telephone number of each petitioner, together with the signature of at least one of the petitioners, or the attorney for the petitioner(s), if any;

(v) The name, mailing address, daytime phone and signature of the petitioner's attorney, if any; and



(vi) The required filing fee.

(b) The costs of transcribing the records of proceedings, of copying photographs, video tapes and any oversized documents, and of staff time associated with copying and assembling the record and preparing any records shall be borne by the petitioner (or equally by the petitioners, if more than one) for the review, with such monies being paid in advance of such transfer to the examiner.

(3) Unless otherwise specified within this code, timely filing of an appeal shall stay the effect of the order, permit, decision, determination or other action being appealed until the appeal is finally disposed of by the examiner or withdrawn; provided, that filing of an appeal from the denial of a permit shall not stay such denial. Failure to file a timely and complete appeal shall constitute waiver of all rights to an administrative appeal under county jurisdiction.

(4) No new appeal issues may be raised or submitted after the close of the time for filing of the original appeal, excepting the raising of errors affecting a constitutional right by parties to an appeal through amendment of their petition for appeal, and the appeal shall be by closed record appeal; except, an open record appeal is permitted when there has not been a previous open record hearing. New evidence and testimony may be given and received in an open record appeal only on issues and errors identified by petitioner on the appeal, except as otherwise provided for under the examiner's rules of procedure. Open record appeals shall be conducted in accordance with the examiner's rules of procedure for substantive hearings, where applicable, and shall serve to provide argument and guidance for the examiner's decision. Open record appeals shall otherwise be conducted as provided for closed record appeals.

(5) The department shall forward the petition(s) for appeal to the examiner's office within three working days of its filing.

(6) The examiner's office, within three working days of receipt of the appeal, shall send written notice of the filing of the appeal to the department or official whose decision has been appealed, which such department shall be thereafter referred to as the "respondent." The respondent, within three working days of receiving notification from the examiner's office, shall transmit to the examiner all relevant and nonprivileged public files on the order, permit, decision, determination or other action being appealed.

(7) The examiner's office, within three working days after receipt of the file from respondent, shall send written notice of the filing of a perfected appeal by certified mail, return receipt requested, to the person named in the order or to the person who initially sought the permit, decision, determination or other action being appealed, whenever the appeal is filed by other than such person, and to all parties of record by regular mail.

(8) The examiner may summarily dismiss an appeal in whole or in part without hearing if the examiner determines that the appeal is untimely, incomplete (having complied with subsection (2) of this section), without merit on its face, frivolous, beyond the scope of examiner jurisdiction or brought merely for the purpose of delay. The examiner may also summarily dismiss an appeal where it is found in response to a written challenge raised by the respondent or permit, etc., applicant and after allowing the petitioner five calendar days in which to reply to the challenge that the petitioner lacks legal standing to appeal or failed to perfect appeal. Except in extraordinary circumstances, summary dismissals shall be decided,



with or without oral argument at the discretion of the examiner, within five calendar days of receipt of such reply or the expiration of such time for reply, whichever is the later.

(9) Appeals shall be processed by the examiner as expeditiously as practicable, giving proper consideration to the procedural due process rights of the parties.

(a) Except as otherwise provided hereunder, no more than 30 calendar days should elapse from the date of the perfection of an appeal and the date of a closed record hearing on the appeal, and no more than 40 calendar days should elapse from the date of perfection of the appeal to the issuance of an examiner decision on the appeal.

(b) Except as otherwise provided hereunder, appeal hearings on board of health matters under LCC 2.25.090(2)(a) and (b) should be set not less than 20 days nor more than 30 days following perfection of an appeal.

(c) The parties to an appeal may agree or the applicant/permittee and the county may mutually agree upon specific extensions of the date of the appeal hearing and decision. The examiner may consolidate multiple appeals of the same action for hearing and decision making purposes to facilitate expeditious and thorough consideration of the appeal, without adversely affecting the due process rights of such parties. In event of a conflict between time deadlines with consolidated appeals, the time deadlines for the last filed appeal shall control all deadlines.

(10) Notice for appeal hearings shall require that the petitioner, the person named in the order or the person who initially sought the permit, decision, determination or other action being appealed, whenever the appeal is filed by other than such person, and all parties of record, the respondent, and all persons otherwise entitled notice by specific statute or county code section, shall be given at least seven calendar days' written notice of the date upon which the matter will be considered at public hearing. Mailing of notice shall be the responsibility of the department, or the department/official responsible for the permit, decision or other action being appealed.

(a) Notices required under this subsection shall be deemed adequate where a good-faith effort has been made by respondent to identify and mail notice to each person entitled thereto.

(b) Notices mailed pursuant to this chapter shall be deemed received by those persons named in an affidavit of mailing executed by the person designated by the examiner, the department, or department or official to mail the notices. The failure of any person to actually receive the notice shall not invalidate any action.

(11) The appeal hearing and the examiner consideration of the appeal shall be limited solely to the issues and errors identified by the petitioner in advance of hearing, and based solely on the record of proceedings, subsection (12) of this section, or upon such additional evidence as may be provided in an open record appeal, pursuant to subsection (4) of this section.

(12) (a) The examiner shall render a written decision which shall include findings of fact and conclusions based only on the record on appeal. Except as stated under LCC 2.25.090 and 2.25.100 as to recommendation matters, or under statute or other county code section, the decision of the examiner shall be final and conclusive on the fifteenth day after the date of execution of the decision, unless a notice of appeal to the superior court is filed pursuant to LCC 2.25.140. The examiner's decision



together with his findings, conclusions, and the record and exhibits of the proceedings shall be filed with the appropriate department or official. If the effect of the decision is a recommendation to the board, the original thereof shall be transmitted to the legislative body.

(b) The examiner may issue a decision on an appeal which may, in conformity with applicable statutes and county code sections, reverse or affirm, in whole or in part, or modify the order, permit, decision, determination or other action appealed from; the examiner thereby having full authority to exercise the authority of the department or official from whom the appeal is taken on that particular issue.

(13) Unless different procedures are prescribed by statute or county code section, the department or, in the alternative, the appropriate department or official shall mail copies of the examiner's decision to the petitioner, the person named in the order or to the person who initially sought the permit, decision, determination or other action being appealed, whenever the appeal is filed by other than such person, and all parties of record, the respondent, and all persons otherwise entitled notice by specific statute or county code section by regular mail not later than three working days following the entry of the decision by the examiner.

(14) No individual examiner shall adjudicate at both an examiner open record hearing on any matter and an open or closed record appeal on such matter through the office of the examiner.

(a) For all proceedings subject to Chapter 17.15 LCC, involving lands within the urban growth boundary (UGA) of any municipality and subject to an interlocal agreement empowering the respective municipality with land use decision making and regulatory authority within its UGA, a special deputy examiner(s) shall adjudicate at the initial examiner hearing on any matter, whether as an open record hearing or as an appeal. [Ord. 1289 §2, 2018; Ord. 1147A §3, 2003; Ord. 1174A § 8, 2001; Ord. 1174, §8, 2000; Ord. 1157 & 1160, 1998; Ord. 1147 § 4.02, 1995; H96-0304 § 4.02, 1996]

#### **2.25.140 Appeals from the examiner.**

(1) Except as to those decisions which constitute recommendations under LCC 2.25.090 and 2.25.100, and as otherwise specified by statute or other county code section, a final decision from an appeal to the examiner may be appealed, as may be applicable and as provided for at law, to the superior court of Lewis County, Washington by one or more of the following means: (a) a land use petition pursuant to the Land Use Petition Act under Chapter 36.70C RCW for "land use decisions" as therein defined; or by (b) a writ of certiorari pursuant to the provisions of Chapter 7.16 RCW, except as limited by the standing requirements and review standards under RCW 58.17.180, and by Chapters 43.21C RCW and 197-11 WAC; or pursuant to RCW 34.05.510, et seq., of the administrative procedures act.

(2) For purposes of writ of certiorari review, the following shall apply:

(a) parties shall first exhaust all available administrative remedies under this chapter, including reconsideration; and

(b) such review is commenced by the filing with said court, within 15 calendar days after issuance of such decision, a writ of review which briefly states the decision appealed and describing why error is assigned to that decision, in accordance with Chapter 7.16 RCW;

(3) For purposes of writ of certiorari and appeals under the administrative procedures act, the costs of transcribing the records of proceedings, of copying photographs, video tapes and any oversized



documents, and of staff time associated with copying and assembling the record and preparing the return for filing with the court shall be borne by the applicant (or equally by the applicants, if more than one) for the writ, with such monies being paid in advance of such filing with the court. [Ord. 1157 & 1160, 1998; Ord. 1147 § 4.03, 1995; H96-0304 § 4.03, 1996]

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**Chapter 16.05  
SUBDIVISIONS**

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#### Article I. General Provisions

##### **16.05.010 General provisions.**

- (1) Title. The title of this chapter shall be the Lewis County subdivision chapter.
- (2) Suitability for Subdivision. Land found to be unsuitable for division for want of conformance to applicable regulation or evidence presented to the commission of flooding, bad drainage, steep slopes, rock formations, or other features likely to be harmful to the safety and general health of future residents shall not be permitted to be divided unless adequate methods are provided for overcoming these conditions.
- (3) Conformance with Standards and Policies. All installation of improvements, including those serving but located outside the subdivision, shall be installed in conformance with all applicable regulations adopted by Lewis County.
- (4) Administrator. The Lewis County director of the community development department or ~~his~~ their designated representative, hereafter referred to as the administrator, is vested with the duty of administering subdivision and platting regulations in the unincorporated areas of Lewis County, and may prepare and require the use of such forms as are essential to their administration.

#### Article II. Purpose

##### **16.05.020 Purpose.**

The purpose of this chapter is to regulate the division of land into five or more lots in compliance with RCW 58.17.030 as amended.

### Article III. Scope

#### 16.05.030 Scope.

(1) Applicability. Every subdivision of land into five or more lots as defined herein shall proceed in compliance with this chapter. Land divided by short subdivision within five years immediately preceding shall be subdivided pursuant to this chapter.

(2) Exemptions. The provisions of this chapter shall not apply to:

(a) Cemeteries and other burial plots while used for that purpose;

(b) Divisions of land into lots or tracts each of which is one-one hundred twenty-eighth of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land; provided, that for the purposes of computing the size of any lot under this chapter which borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the centerline of the road or street and the side lot lines of the lot running perpendicular to such centerline;

(c) Divisions made by testamentary provisions, or the laws of descent;

(d) A division for the purpose of lease when no structure other than mobile homes or travel trailers are to be placed on the land and the county has approved a binding site plan for the use of the land in accordance with the requirements of Chapter 15.30 LCC as now or hereafter amended;

(e) A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;

(f) Divisions of land into lots or tracts zoned or designated within urban growth areas for industrial or commercial development, rural industrial and commercial areas, and urban commercial and industrial reserve areas, when the county has approved a binding site plan for the use of the land in accordance with commercial binding site plan regulations, now or hereinafter existing.

(3) Redivision of Land within an Existing Subdivision. The further division of any lot situated within an existing full subdivision established pursuant to either Chapter 58.16 or 58.17 RCW or this chapter into four lots or less for purposes of sale, resale, lease or transfer of ownership shall proceed in compliance with Chapter 16.10 LCC, as now or hereafter amended.

### Article IV. Preliminary Plat Procedure

#### 16.05.050 Preliminary plat - Application.

A preliminary plat application shall be processed as a Type ~~IV~~ III application per Chapter 17.05 LCC.

#### 16.05.080 Processing.

Upon receipt of a complete preliminary plat application the administrator shall affix a file number and date of receipt to the application and promptly forward copies of the plat with a request for comment to the following agencies as appropriate:



- (1) The Lewis County public works department;
- (2) The Lewis County community development department;
- (3) The Lewis County building official;
- (4) The Lewis County fire marshal;
- (5) The Lewis County environmental health section;
- (6) Other county officials concerned within the scope of their municipal functions;
- (7) The proper city officials when the subject property is within one mile of the corporate limits of any city or town;
- (8) Engineer of the Washington State Department of Transportation when the subject property is adjacent to the rights-of-way of existing or proposed state highways;
- (9) Local school district;
- (10) Local fire district;
- (11) Utility purveyors;
- (12) Lewis County natural resources conservation district;
- (13) Municipalities whose urban growth boundaries or urban reserve areas overlay any portion of the subject property;
- (14) Any other agency with interest, expertise, or jurisdiction.

**16.05.090 Recommendations of other agencies.**

- (1) Each of the departments, municipalities, districts, public officials, utility companies, or other public agencies shall forward to the administrator written reports of its comments and recommendations.
- (2) County Engineer - Public Works Division. The public works division shall submit a report on:
  - (a) The improvements required under the provisions of this chapter;
  - (b) Any easements that may be required;
  - (c) The effect of subdivision development on drainage in the general area, and the adequacy of the plan for handling drainage and stormwater runoff submitted by the subdivider;
  - (d) Effects of the proposed subdivision on other public improvements under the jurisdiction of the county engineer/public works division;
  - (e) The accuracy of the technical information submitted;
  - (f) The adequacy of lot arrangement and dimensions for providing driveway access to buildings on such lots from an approved street;
  - (g) The adequacy of any proposed public and private roadways;

(h) The adequacy of transit stops, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school.

(3) Lewis County Environmental Health Section. The environmental health section shall submit a report on:

(a) Adequacy of the proposed method of sewage disposal;

(b) Adequacy of the proposed method of domestic water supply, and incorporating the determination of potability by the building official;

(c) The adequacy of lot arrangement and dimensions for obtaining any necessary sewage permits;

(d) Other matters related to the proposed subdivision which may affect public health.

(4) Lewis County Building Official. The county building official shall submit a report on:

(a) The adequacy of lot arrangement and dimensions for securing necessary building permits;

(b) Compliance with Chapter 15.15 LCC as now or hereafter amended;

(c) Compliance with the Chapter 15.35 LCC as now or hereafter amended;

(d) The availability of potable water.

(5) Lewis County Fire Marshal. The county fire marshal shall submit a report on:

(a) The adequacy of access for emergency vehicles;

(b) Adequacy of the water supply for fire protection purposes;

(c) Fire hydrant location and adequacy;

(d) Other matters affecting fire safety and fire protection, including any temporary fire protection measures needed during the construction phase of the subdivision.

(6) The Administrator. After receiving the comments from the departments or agencies, the administrator shall submit a report to the hearing examiner regarding the conformance of the proposed subdivision to the requirements of this chapter.

#### **16.05.100 Hearing examiner hearing date.**

Following the receipt of an application completed in compliance with the requirements of this article, the administrator shall set the date for public hearing before the Lewis County hearing examiner. Said hearing shall be held in accordance with Chapter 2.25 LCC. Any public notice and appeal period for an environmental review subject to Chapter 17.110 LCC shall be issued and expire prior to the public hearing.

#### **16.05.120 Public hearings.**

(1) Scope and Continuance.



(a) The hearing examiner shall consider the preliminary plat application for conformance to any adopted comprehensive plan, planning standards, and specifications, including Article VI of this chapter and other policies and standards of the county.

(b) The hearing examiner shall additionally ensure that:

(i) Appropriate provisions are made for public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and all other relevant items, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school;

(ii) The public use and interest will be served by the platting of the subdivision and any dedications associated with the subdivision.

(c) If the examiner finds that the proposed subdivision and dedication make appropriate provisions and that the public use and interest will be served, then the examiner shall ~~recommend approval~~ approve of the proposed subdivision. Dedication of land to any public body and/or provision of public improvements to serve the subdivision may be required as a condition of subdivision approval.

#### **16.05.130 ~~Board~~ Hearing examiner action.**

~~(1) Upon receipt of the hearing examiner's recommendations, the board shall at its next public meeting set the date for the public meeting where it shall consider the recommendations of the hearing examiner. During its consideration, the board shall inquire into the public use and interest to be served by the establishment of the subdivision or any dedication, based on the record established at the public hearing. If, after considering said recommendations at a public meeting, the board deems a change in the hearing examiner's recommendation approving or disapproving any preliminary plat is necessary, the board shall adopt its own recommendations and approve or disapprove the preliminary plat.~~

~~(21)~~ Every decision made by the ~~board~~ hearing examiner under this chapter to approve or disapprove a preliminary plat shall be in writing and shall include findings of fact and conclusions to support the decision.

~~(32)~~ Records. Records of the public hearings and public meetings concerning a preliminary plat shall be kept by the administrator ~~and by the clerk of the board, respectively~~, and shall be open to public inspection.

#### **16.05.140 Preliminary plat approval.**

(1) Approval of the preliminary plat by the ~~board~~ hearing examiner shall provide notice to the subdivider that he/she may proceed to develop the subdivision's facilities and required improvements.

(2) Facilities and required improvements must be developed or bonded in strict accordance with the standards established by this chapter and imposed by the ~~board~~ hearing examiner.

(3) Any improvement work requiring review and approval by the county engineer/public works division shall not commence until the preliminary plat has been approved by the ~~board~~ hearing examiner and until the improvement plans have been checked for accuracy and approved by the county engineer/public works division. As the improvement work is undertaken, the subdivider shall arrange all

the inspections required by the county engineer/public works division. No stage of construction shall proceed until the preceding stage has been inspected.

(4) The approval of a preliminary plat shall not imply the approval to convey lots. Transferring of lots depicted on a preliminary plat shall not occur until a final plat has been recorded.

(5) A final plat in conformance with the approved preliminary plat must be submitted within the time period established in LCC 17.05.140.

(6) Minor or Major Adjustments. Once a preliminary plat has been approved, no alterations shall be made without receiving additional approvals. Minor or major adjustments may be applied for by the plat applicant.

(a) Minor adjustments shall be addressed as a Type I application.

(b) Major adjustments shall be addressed as a Type ~~IV~~ III application. Major adjustments are alterations that are determined to be of a substantial nature by the administrator, and require reconsideration of one or more of the approval elements under LCC 16.05.120.

#### **16.05.150 Preparation of preliminary plats.**

The preparation of every preliminary plat shall be made by or under the direction of a land surveyor or engineer licensed by the state of Washington.

#### **16.05.170 Subdivision design and minimum standards.**

Every subdivision shall conform with the design standards articulated in Article VI of this chapter.

### **Article V. Final Plat Procedure**

#### **16.05.180 Filing period.**

At any time within the time period established in LCC 17.05.140, the subdivider may cause the subdivision to be surveyed and a final plat to be prepared. The original copy shall be filed with the administrator. Any failure to record a final plat within time limits specified in LCC 17.05.140 shall terminate all proceedings.

#### **16.05.190 Final plat - Application.**

A final plat application shall be processed as a Type I application per Chapter 17.05 LCC.

#### **~~16.05.190~~ 200 Review by administrator.**

The administrator shall verify:

(1) That the final plat meets all standards established by Chapter 58.17 RCW and ~~this chapter relating to final plats;~~

~~(2) That~~ that all conditions of preliminary plat approval have been met. No agency shall modify the conditions of approval without the consent of the subdivider;



(32) That the proposed final plat bears all the dedications, acknowledgments, and endorsements required by LCC 16.05.240(2). The subdivider shall be responsible for obtaining the endorsement of the county treasurer and the signature of the property owner(s) and the signature of the subdivider's surveyor prior to filing;

(43) That a title report from a title insurance company authorized to do business in the state of Washington confirms that title of the land in the proposed subdivision is vested in the name of the owner(s) whose signatures appear in the plat dedication. The report shall have been issued within 30 days of the filing of the final plat;

(54) That all private facilities and improvements required to be provided by the subdivider have been completed and that any such required public facilities or improvements have been completed or that the requirements of LCC 16.05.260 have been satisfied;

(65) That any maintenance agreement required by LCC 16.05.360 has been submitted with the final plat;

(76) That the recommendation of any agency furnishing sewage disposal or supplying water as to the adequacy of the proposed means of sewage disposal and water supply has been received.

**16.05.210 Disapproval of final plat.**

(1) If the administrator verifies the matters in LCC 16.05.200, he or she shall approve the final plat unless:

(a) the administrator finds that the preliminary plat approval violated controlling state or federal law; and

(b) the administrator initiates a revocation procedure of the preliminary plat approval under LCC 17.05.150.

(2) If the administrator cannot verify the matters in LCC 16.05.200, he or she shall disapprove the final plat, advising the subdivider in writing of the reason for the disapproval and of the appeal procedure.

(3) Prior to disapproval under subsection (2) of this section, the administrator may provide courtesy notice to the subdivider of any curable issue, so as to allow cure and approval rather than disapproval.

**~~16.05.200 Submission to board.~~**

~~The administrator shall acknowledge the receipt of final plat application which meets the requirements of this article and shall forward the original to the board.~~

**~~16.05.210 Board action.~~**

~~(1) The board, at its next public meeting, shall determine:~~

~~(a) Whether the requirements of state law and this chapter, which were in effect at the time of preliminary plat approval, have been satisfied by the subdivider;~~

~~(b) Whether all conditions of preliminary plat approval have been met;~~

~~(c) Whether, if necessary, the requirements of LCC 16.05.260 have been satisfied.~~

~~(21) The board shall thereupon approve or disapprove the proposed final plat. Every decision made by the board under this chapter to approve or disapprove a final plat shall be in writing and shall include findings of fact and conclusions to support the decision.~~

#### **16.05.220 Approval and recording.**

~~The action by the board approving a final plat shall become effective when the subdivider has filed the original copy of the final plat for record in the office of the county auditor, with the notation made of the fact thereof that the same has been approved by the board administrator as herein provided. Failure to so file with the county auditor within 60 days after board administrator action shall automatically cause a lapse of approval, and the same shall not be filed until further approval has been granted by the board.~~ The final plat shall be duly filed with and recorded by the county auditor upon receipt of the full amount of the filing fee according to the provisions of RCW 36.18.010. Two paper copies of the filed final plat shall be returned to the subdivider.

#### **16.05.230 Disapproval of final plat.**

~~Should for any reason the board disapprove a proposed final plat they shall so advise the subdivider thereof in writing stating the reasons of disapproval and advising of the appeal procedure.~~

#### **16.05.240 Standard format.**

(1) Maps and Drawings. Every final plat shall consist of one or more sheets each 18 inches by 24 inches clearly and legibly drawn on stable base mylar polyester film. All drawings and lettering on the final plat shall be in permanent black ink. A margin line shall be drawn completely around each sheet leaving an entirely blank margin of two inches on the left side and one inch on the remaining sides. The plat scale shall not be more than 50 feet to the inch nor less than 200 feet to the inch. If more than one sheet is required, each sheet shall be numbered, indexed, and contain the subdivision name. All signatures shall be written in permanent black ink. Every final plat shall include an accurate map of the subdivided land based upon a complete survey thereof. The map shall include the following:

- (a) The perimeter of the plat shall be depicted with heavier lines than appear elsewhere in the plat;
- (b) All section, township, municipal, and county lines lying within or adjacent to the subdivision;
- (c) The location of all monuments or other evidence used as ties to establish subdivision boundaries;
- (d) The location of all permanent control monuments found and established within the subdivision;
- (e) The length and bearings of all straight lines; the radii, arcs, and semi-tangents of all curves;
- (f) The boundaries of the subdivision with complete bearings and lineal dimensions;
- (g) The length of each lot line together with bearings and other data necessary for the location of any lot in the field;
- (h) The location, width, centerline, and name of all streets within or adjoining the subdivision;
- (i) The location and width, shown with broken lines, and description of all easements;
- (j) The numbers assigned to all lots and blocks within the subdivision;



(k) Delineation of the floodplain when present.

(2) Written Data. In addition to map(s) and drawings, every final plat shall contain the following written data:

(a) Subdivision name;

(b) Legal description of the land within the subdivision;

(c) The certification of the registered land surveyor who made or under whose supervision was made the survey of the subdivision, in substantially the following language:

I \_\_\_\_\_, Professional Land Surveyor, do hereby certify that the Plat of \_\_\_\_\_ is based on an actual survey and that the distances, courses, and angles are shown thereon correctly and that monuments have been set and lot corners staked on the ground as shown on the plat.

\_\_\_\_\_  
Signature of Land Surveyor

(d) A certificate of dedication or a separate written instrument which shall include the following:

Know all men by these present that \_\_\_\_\_ do hereby declare this plat and dedicate to the public forever all roads and ways shown hereon together with the right to make all necessary slopes for cuts and fills, and the right to continue to drain said roads and ways over and across any lot or lots, where water might take a natural course, in the original reasonable grading of the roads and ways shown hereon.

Following original reasonable grading of roads and ways hereon, no drainage waters on any lot or lots shall be diverted or blocked from their natural course so as to discharge upon any public road rights-of-way, or to hamper proper road drainage. Any enclosing of drainage waters in culverts or drains or rerouting thereof across any lot as may be undertaken by or for the owner of any lot shall be done by and at the expense of such owner.

In witness whereof, we have hereunto set our hand(s) and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed and sealed \_\_\_\_\_  
\_\_\_\_\_

State of Washington }

}ss.

County of Lewis }

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public, personally appeared \_\_\_\_\_ to me known to be the person(s) who executed the foregoing dedication and acknowledged to me that \_\_\_\_\_ signed and sealed the same as \_\_\_\_\_ free and voluntary act and deed for the uses and purposes therein mentioned.

Witness my hand and official seal the day and year last above written.

\_\_\_\_\_  
Notary Public in and for the

State of Washington, residing at  
\_\_\_\_\_  
\_\_\_\_\_

(e) The endorsements of the required county officials which shall be as follows, but do not signify acceptance of any improvements of property into county ownership and the county will have no responsibility for their maintenance unless separate agreements to that effect are concluded:

(i) Examined for survey datum, rights-of-way layout, and design of bridges and other structures required by a resolution of approval and approved.

Dated \_\_\_\_\_

County Engineer

(ii) Examined for ability to conform to Lewis County Health District Regulations pertaining to water supply and sewage disposal and approved.

Dated \_\_\_\_\_ Health Officer,  
Lewis County Board of Health

(iii) I certify that all taxes and delinquent assessments for which the property may be liable as of this date have been paid and that deposits as required by law against taxes that may become payable in the year have been made.

Dated \_\_\_\_\_ County Treasurer

(iv) Examined for conformance to the conditions of preliminary plat approval and approved.

Dated \_\_\_\_\_ Director of  
~~Community Development Dept.~~ Community Development Dept. Administrator

(v) Examined and approved.

Dated \_\_\_\_\_

~~Chairman, Board of County Commissioners~~ Director of Community Development Dept.

(vi) Filed for record at the request of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ minutes past \_\_\_\_\_ o'clock \_\_M, and recorded in Volume \_\_\_\_\_ of Plats, on Page \_\_\_\_\_, Records of Lewis County, Washington.

\_\_\_\_\_  
Lewis County Auditor

\_\_\_\_\_  
Deputy Auditor

**16.05.250 Surveys.**



(1) Accuracy. A traverse of the boundaries of the subdivision and all lots and blocks shall close within an error of one foot in 5,000 feet.

(2) Orientation of Subdivision. Primary survey control points shall be referenced to section corners and monuments. Corners of adjoining subdivisions or portions thereof shall be identified and ties shown.

(3) Permanent Control Monuments. Permanent control monuments shall be established at:

(a) All angle points on the boundaries of the subdivision;

(b) The intersections of the centerline of all roads within the subdivision;

(c) The beginnings and ends of all curves on centerline;

(d) Monuments shall be of the type shown on the monument and brass plug standard in the Lewis County road standards for urban and rural design.

**16.05.260 Improvement agreement.**

(1) Prior to the approval of any final plat by the board, the subdivider shall either install all required improvements and repair any existing streets or other facilities damaged in the development of the subdivision or else execute and file an agreement between himself and Lewis County specifying the period acceptable to the county within which he shall complete all remaining public improvement work to the satisfaction of the county. If he/she shall fail to complete such work within such period, the county may complete the same and recover the full cost and expense thereof from the subdivider or his surety. The agreement shall provide for the inspection of all improvements by the county. Such agreement may also provide for:

(a) The construction of improvements in units;

(b) The extension of time under conditions specified therein;

(c) The termination of the agreement upon the completion of construction of improvements deemed by the county to be at least the equivalent of the improvements specified in such agreement and required to be constructed by the subdivider; and

(d) For progressive remittances to the subdivider for any deposit money which the subdivider may have made in lieu of providing a surety bond, as provided in subsection (2) of this section; providing however, that no such progress payments shall be made for more than 90 percent of the value of any installment of work; and provided, that each installment of work shall be completed to the satisfaction of the county.

(2) Bonds.

(a) With the improvement agreement required by this article the subdivider shall submit a performance bond conditioned upon full construction of all required improvements in an amount equal to 125 percent of the estimated costs of said improvements. These estimated costs shall be verified by the county engineer. Said bond shall be executed by a surety company authorized to transact surety business in the state of Washington;

(b) In lieu of a corporate surety, the subdivider may deposit with the county auditor cash or other securities not subject to impairment or discharge in bankruptcy and readily convertible into cash by the county, in an amount fixed by the county engineer at 125 percent of the estimated costs of said improvements.

(3) Monitoring of Improvement Agreements. The administrator shall monitor the progress of all improvement work covered by improvement agreements, ~~and two weeks before the expiration of the period specified for the completion of all improvement work,~~ Should said work not be completed to the satisfaction of the county prior to expiration, shall notify the board of said expiration the administrator shall document expiration in file.

(4) Forfeiture of Surety. In the event the subdivider shall fail to complete all improvement work in accordance with the provisions of this chapter and improvement agreement, the county shall complete the same and shall call upon the surety for reimbursement, or appropriate from any deposit funds for reimbursement. If the amount of the surety bond or deposit is less than the costs and expenses incurred by the county, the subdivider shall be liable to the county for the difference.

(5) Release of Surety. No progress payments from such cash deposit or release of surety bond or cash deposit shall be made except upon certification by the county engineer and the administrator that the work covered thereby has been satisfactorily completed and approval by the ~~board~~ administrator has been granted.

## **Article VI. Development and Subdivision Design Standards**

### **16.05.270 Access.**

Access to the subdivision entrance shall be by public road.

### **16.05.280 Public roads - Design and construction standards.**

All subdivision streets and roads to become part of the county public road system shall conform to the Lewis County road standards for urban and rural design or any variance granted thereto, as approved by the board, in effect at the time any preliminary plat of the subdivision is submitted for approval.

### **16.05.290 Private roads.**

Private roads shall be allowed in subdivisions when the following criteria are met:

- (1) Location. The road location is approved by the county engineer.
- (2) Construction Specifications. The private roads shall be constructed to no less than those standards for private roads contained in the Lewis County road standards for urban and rural design, as approved by the board by ordinance or resolution, in effect at the time any preliminary plat is submitted for approval.
- (3) Ownership. Private roads within subdivisions shall be owned by a property owner's association and provisions shall be established for their maintenance and repair as specified in LCC 16.05.360.

### **16.05.300 Design - Lots.**



(1) Access. Each lot shall be provided with satisfactory access by means of a public road connecting to an existing public road or by some other legally sufficient right of access which is permanent and inseparable from the lot. Existing forest service roads are not considered suitable access for subdivision purposes unless this provision is waived by the ~~board~~ hearing examiner upon the recommendation of the forest supervisor of the appropriate national forest.

(2) Design. Each lot shall be designed to provide an identifiable feasible building site taken as a rectangle of not less than 1,200 square feet with the narrowest dimension of not less than 16 feet and, if required, an identifiable feasible drainfield area and well location.

(3) Size. The minimum area of each lot shall be determined as follows:

(a) When served by sanitary sewers and community or public water supply the minimum lot size shall be 6,000 square feet;

(b) When served by individual septic tanks and drain fields and/or individual water supply, minimum lot sizes shall meet the requirements of the sewage disposal rules and regulations of the Lewis County board of health;

(c) When other methods of sewage disposal are used such as a community septic system, minimum lot sizes shall be as recommended by the Lewis County board of health or the Washington State Department of Health. If off-lot location of the community drain field is approved and if there is a public water supply then the minimum lot size provided in subsection (3)(a) of this section can be used.

(4) Width. The minimum width for each lot as measured between the midpoints of the side lot lines shall be 60 feet.

(5) Frontage. A minimum road frontage of 30 feet shall be required for each lot.

(6) Reverse Frontage Lots. No residential lot shall have road frontage along two opposite boundaries unless topographical features or the need to provide separation of lots from traffic arterials, commercial activities, or industrial activities justify the designing of reverse frontage lots. For such lots a strip of land not less than 10 feet wide in addition to any other minimum dimension required herein shall be provided along the lot line adjoining such arterials or other disadvantageous use across which there shall be no right of vehicular access.

(7) Design. All lots shall be of compact design; lot lines shall be straight lines except insofar as they may follow the radius of a road curve and may form a three-, four-, or five- sided figure. No easement for access or unusual features as provided in LCC 16.05.330(2) and (3) shall be permitted to bisect a lot.

(8) Markers. Each lot shall have lot markers made of wood with lettering of lot and block numbers and located to be visible from the road and to be in place prior to final plat approval.

#### **16.05.310 Design - Blocks.**

(1) Length. In general, blocks shall be as long as is reasonably possible, consistent with the topography and the needs of convenient access, circulation, control, and safety of street traffic and the type of land use proposed, but ordinarily block lengths shall not exceed 1,500 feet or be less than 500 feet.

(2) Width. Except for reverse frontage parcels, the width of blocks shall ordinarily be sufficient to allow for two tiers of lots of depths consistent with the type of land use proposed; that is normally not less than 200 feet for the sum of two lot depths.

(3) Super Blocks. For large parcels with access provided by a series of cul-de-sacs or loop streets entering from the periphery and for large parcels platted into half acre and larger lots, the criteria in subsections (1) and (2) of this section shall be disregarded in favor of considerations on an individual basis. Blocks of acreage-type lots shall have block lengths and widths that will lend themselves to later resubdivision in accordance with the standards prescribed in this chapter.

(4) Crosswalks. In industrial and commercial plats, crosswalks of not less than 10 feet in width will be constructed at each intersection of roadways. Crosswalks may be required at the midpoint of any block exceeding 1,000 feet in length where such a crosswalk is deemed essential to provide circulation or pedestrian access to business concerns, schools, playgrounds, shopping centers, and other community facilities. The necessity of such crosswalks shall be left to the discretion of the administrator.

#### **16.05.320 Setbacks.**

The designed provision for any building site within a subdivision shall be in compliance with the requirements of Chapters 15.15 and 17.145 LCC as now or hereafter amended.

#### **16.05.330 Easements.**

(1) Public Utilities. The subdivider shall submit a letter to the administrator from each of the proposed service utilities informing the administrator that the proposed utility construction is adequate and satisfies the needs of both the subdivider and the utility, and is adequate to meet the requirements of the subdivision. The letter shall inform the administrator as to the general construction plan agreed upon between the subdivider and the utility.

(2) Unusual Facilities. Easements for unusual facilities such as high voltage electric transmission lines shall be of such width as is adequate for the purpose, including any necessary maintenance roads.

(3) Watercourses. Where a subdivision is traversed by a watercourse, drainage way, waste way, channel, or stream, there may be required a stormwater easement or drainage right-of-way extending 15 feet landward from the ordinary high water mark and conforming substantially to the line of such watercourse, drainage way, waste way, channel, or stream.

#### **16.05.340 Design and construction standards - Utility installations.**

(1) Public Water Supply. For connection to existing Group A public water systems, installation shall be to the design and construction standards of the supplying utility. For newly created Group A water systems and Group B water systems, installation shall meet Lewis County and Department of Health standards and specifications.

(2) Sanitary Sewers. Installation of sanitary sewers shall be to the design and construction standards of the supplying utility.

(3) Electrical Power, Telephone, Cable Television, and/or Natural Gas. Electrical power and telephone cable shall be provided to each lot. Natural gas and television cable may be required where feasible.



Installation shall be to the standards of the supplying utility. Undergrounding shall be required except where determined by the supplying utility not to be feasible.

**16.05.350 Fire protection standards.**

- (1) When Required. The installation of fire hydrants and the sizing of water lines for fire flow shall be required for all subdivisions which either create a new Group A public water supply or connect to an existing Group A system.
- (2) Fire Flow Sizing. Water distribution mains on which fire hydrants shall be located shall be sized to the standards specified in a current Insurance Service Office's Guide for Determination of Fire Flow.
- (3) Hydrants. When hydrants are required, the spacing between hydrants shall be determined by the appropriate fire protection agency except in those instances where that agency fails to make such a determination in which case said spacing shall be that specified by a current Washington State Chapter, American Public Works Association Standards and Specifications.
- (4) Ingress - Egress. For subdivisions of 20 units or more, at least two ingress-egress routes may be required by the county fire marshal or fire protection agency.

**16.05.360 Maintenance agreements.**

- (1) When Maintenance Agreements Required. Maintenance agreements, in a form approved by the administrator, shall be required for all subdivisions which have private roads, common areas, recreation areas, or utility systems, any of which are jointly owned. These agreements shall be accompanied by a certificate from a private attorney assuring perpetual maintenance of the appropriate property or improvements and shall be submitted prior to final plat approval.
- (2) Minimum Contents and Requirements. All maintenance agreements shall at a minimum provide for the following:
  - (a) Membership of lot owners in a property owner's association established for the maintenance and repair of the appropriate property or improvements;
  - (b) An equitable means of assessment for maintenance or necessary improvement costs;
  - (c) Ownership of all improvements; and
  - (d) Any other matters necessary to guarantee a workable organization.
- (3) Encumbrance. Maintenance agreements shall be of record in the office of the Lewis County auditor and shall be referenced by identifying notation on the final plat.

**16.05.370 Flood protection.**

Any subdivision which falls within an area of special flood hazard (100-year frequency floodplain) as identified by the Federal Emergency Management Agency shall comply with all the requirements of the National Flood Insurance Program and Chapter 15.35 LCC.

**16.05.380 Dedications of land for public uses and open space.**

(1) Necessity of Dedications - Public Uses. The burden of proof for the necessity of reservations for public uses shall rest with the agency or individuals deeming it necessary.

(2) When Required. The ~~board~~ hearing examiner may require that suitable land be reserved for such public uses as parks, playgrounds, recreation areas, fire stations, schools, or utility facilities, and the preservation of natural features and amenities where such reservations would be appropriate. Such lands shall remain undeveloped for the period of time set by the ~~board~~ hearing examiner to permit the affected agency to purchase the land.

(3) General Requirements. Each required reservation shall be suitable in size, dimension, topography, and general character and shall have adequate road access for the particular purposes envisioned. The area shall be shown and marked on the final plat as being reserved for the intended purpose.

#### **16.05.390 Nonresidential subdivisions.**

(1) A nonresidential subdivision shall be subject to all the requirements of plat approval set forth in this subdivision chapter. A nonresidential subdivision shall be subject to all the requirements of these regulations as well as such additional standards required by the ~~board of county commissioners of Lewis County~~ hearing examiner.

(2) In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

(a) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated;

(b) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated;

(c) Special requirements may be imposed by the ~~board~~ hearing examiner with respect to street, curb, gutter, and sidewalk design and construction;

(d) Special requirements may be imposed by the ~~board~~ hearing examiner with respect to the installation of public utilities, including water, sewer, and stormwater drainage;

(e) Reasonable effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing residential areas and provisions for a noise and sight buffer and a permanently landscaped buffer strip when necessary;

(f) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing residential areas.

### **Article VII. Clustered Subdivisions**

#### **16.05.400 Standards for clustered development.**



- (1) Clustered subdivisions shall meet the standards in Chapter 16.18 LCC.
- (2) The review process for clustered subdivisions shall be the same as for preliminary and final plats.
- (3) The standards and requirements of this chapter may be modified by the ~~board, upon the recommendation of the~~ hearing examiner.
- (4) Clustered subdivisions shall have the same standard format as that required for final plats in LCC 16.05.240.

#### **Article VIII. Enforcement and Penalties**

##### **16.05.460 Recording prohibited.**

No map, plat, replat, or plan of a subdivision subject to the provisions of this chapter shall be recorded or received for recording in any public office unless or until that map, plat, replat, or plan shall bear the certified final approval of the ~~board of county commissioners~~ administrator.

##### **16.05.470 Permits prohibited.**

No building permit, septic tank permit, or other development permit shall be issued for any lot, tract, or parcel of land divided in violation of this chapter or local regulations adopted pursuant thereto unless the authority to issue such permits finds that the public interest will not be adversely affected thereby. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers' or transferees' property shall comply with the provisions of this chapter and each purchaser or transferee may bring action to recover his damages from any person, firm, corporation, or agent selling or transferring land in violation of this chapter, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this chapter, as well as costs of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser or transferee may, as an alternative to conforming this property to these requirements, bring action to rescind the sale or transfer and recover costs of investigation, suit, and reasonable attorney's fees occasioned thereby. [Ord. 1269 §3, 2016; Ord. 1169, §1, III, QQ, 2000]

##### **16.05.480 Action to restrain violations.**

Whenever any parcel of land is divided into five or more lots, tracts, or parcels of land, and any person, firm, or corporation or any agent of any of them sells, leases, transfers, or offers or advertises for sale, lease, or transfer any such lot, tract, or parcel without having a final plat of such subdivision filed for record, the prosecuting attorney shall commence an action to restrain and enjoin further subdivisions for sale, lease, transfer, or offers for sale, lease, or transfer and compel compliance with all provisions of this article on those lands which previously have been subdivided, sold, leased, transferred, or offered for sale, lease, or transfer in noncompliance with this chapter. The costs of such action shall be taxed against the person, firm, corporation, or agent selling, leasing, or transferring the property.

##### **16.05.490 Discontinuance of violation.**

In the enforcement of this chapter, the prosecuting attorney may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter from any person engaging in, or who has

engaged in, such action or practice. Any such assurance shall be in writing and be filed with and subject to the approval of the superior court of Lewis County. A violation of such assurance shall constitute a prima facie proof of a violation of this chapter.

**16.05.500 Violation - Penalties.**

Any person who violates any court order or injunction issued pursuant to this chapter shall be subject to a fine of not more than \$5,000 or imprisonment for not more than 90 days or both.

**16.05.510 Criminal penalty.**

Any person, firm, corporation, or association or any agent of any person, firm, corporation, or association who violates any provision of this chapter or any subsequent regulations adopted pursuant thereto relating to the sale, offer for sale, lease, or transfer of any lot, tract, or parcel of land shall be subject to the penalties in RCW 58.17.300.

**16.05.520 Unlawful representations.**

It shall be unlawful for any person, firm, or corporation owning a plat or subdivision of land within the county to represent that any improvement upon any of the streets, alleys, or other public ways of said plat or subdivision has been constructed according to the plans and specifications approved by the county engineer or has been supervised or inspected by the county engineer when such improvement has not been so constructed, supervised, or inspected.



PURPOSE AND GUIDELINES

**Chapter 17.05**  
**GENERAL PROVISIONS**

Sections:

- 17.05.010 Statutory authority.
- 17.05.020 Statement of purpose.
- 17.05.030 Applicability.
- 17.05.040 Project permit application type.
- 17.05.050 Preapplication.
- 17.05.060 Contents of application.
- 17.05.070 Determination of completeness - Lapsed applications - Postponed applications.
- 17.05.080 Notice of application.
- 17.05.090 Vesting of permits.
- 17.05.100 Consolidation of project permit applications.
- 17.05.110 Integration of State Environmental Policy Act (SEPA) review with review of project permit application.
- 17.05.120 Public hearings.
- 17.05.125 Time frames for decisions.
- 17.05.130 Notice of decisions.
- 17.05.140 Duration of decisions.
- 17.05.150 Revocation of approval.
- 17.05.160 Appeals.
- 17.05.170 Administration and interpretation.
- 17.05.180 Fees.
- 17.05.190 Refund of permit fees.

Prior legislation: Ords. 1170B, 1174A, 1175 and 1179.

**17.05.010 Statutory authority.**

The ordinance codified in this title is adopted pursuant to the provisions of Chapter [36.70A](#) RCW, which empowers a county to enact a zoning ordinance and provide for its administration, enforcement, and amendment.

**17.05.020 Statement of purpose.**

The purpose and intent of the title is to further the goals and policies of the Lewis County comprehensive plan by providing the authority for and procedures to be followed in regulating the physical development of Lewis County.

**17.05.030 Applicability.**

(1) Unless otherwise provided, the regulations identified in this chapter shall apply to the following Lewis County Code (LCC) provisions:

- (a) LCC Title [16](#), Subdivisions;

(b) LCC Title [17](#), Land Use and Development Regulations; and

(c) All other code sections that refer to this section for administration.

(2) Building permits subject to the State Environmental Policy Act (SEPA) shall follow the procedures of this chapter. Building permits exempt from SEPA shall be subject to the procedures identified within LCC Title [15](#) and not this chapter.

(3) In the event of a conflict between this chapter and any other applicable process, unless specifically provided otherwise, the director shall, in his or her sole discretion, determine the appropriate regulation, considering the following principles:

(a) State or federal provisions shall apply over local provisions;

(b) Specific provisions shall apply over general provisions; and

(c) Later enacted provisions shall apply over provisions enacted earlier.

**17.05.040 Project permit application type.**

(1) Project permit applications are categorized as one of five types described below. Tables 17.05-1 and 17.05-2 specify various permits that fall within the categories and the methods for processing the various project permits.

(a) Type I applications involve decisions that require little notice which are decided by the administrator.

(b) Type II applications are administrative actions that require notice of application and a notice of decision.

(c) Type III applications are quasi-judicial actions that require an open record hearing and decision before the hearing examiner.

(d) Type IV applications are quasi-judicial actions that require an open record hearing before the hearing examiner and a decision by the Lewis County board of county commissioners.

(e) Type V applications are actions that require a public hearing before the planning commission and a decision by the board of county commissioners.

(i) Project-specific actions include modifications to development regulations, the comprehensive plan, or the zoning map that affect an individual or smaller group of parcels. Project-specific amendments are typically sought by an individual property owner or group of owners for their own benefit. The applications require public notice on the site and for neighbors and a quasi-judicial public hearing before the planning commission.

(ii) Nonproject legislative actions include modifications to development regulations, the comprehensive plan, or zoning map that affect larger groups of parcels. The process for the amendments is articulated in Chapter [17.12](#) LCC, though noticing requirements are included within this section. Nonproject legislative actions are typically sought by the county to promote a public rather than an individual benefit.



(2) If this chapter does not expressly provide for review using one of the five types of procedures, and another specific procedure is not required by law, the director shall classify the application as one of the five procedural types and it will be processed accordingly. Questions about what procedure is appropriate shall be resolved in favor of the type providing the greatest public notice and opportunity to participate.

**Table 17.05-1**  
**Permit Review Type - Process Chart**

	Type				
	I	II	III	IV	V <sup>1</sup>
<b>REQUIRED PUBLIC NOTICE<sup>2</sup></b>					
Notice Period		At Least 15 Days Before the Decision	At Least 15 Days Before an Open Record Public Hearing		
Mailed Notice		X	X	X	X <sup>3</sup>
Notice Posted on Road Frontages		X	X	X	X <sup>3</sup>
Notice Published in Newspaper			X	X	X
Notice Posted at Libraries and Senior Centers					X
<b>PUBLIC HEARING</b>					
Planning Commission					X
Hearing Examiner			X	X	
<b>DECISION-MAKING BODY</b>					
Administrator	X	X			
Hearing Examiner			X		
Board of County Commissioners				X	X
<b>APPEAL</b>					
To Hearing Examiner (as Specified in LCC <a href="#">2.25.130</a> )	X	X			
To Appropriate Court/Hearings Board (as Defined in LCC <a href="#">2.25.140</a> )			X	X	X

<sup>1</sup> Notice associated with nonproject specific Type V actions may incorporate notice provisions far beyond those shown within the matrix including workshops, press releases, online information, etc. The information shown above for nonproject Type V actions should be considered the absolute minimum necessary to achieve a code or comprehensive plan change.

<sup>2</sup> Notice of SEPA determinations may be combined with other notices, so long as the requirements in WAC [197-11-510](#) and LCC [17.110.170](#) are met.

<sup>3</sup> Notice required on-site and to neighbors when part of a project-specific amendment.

**Table 17.05-2**

**Process Required for Different Permit Types**

	Type					Code Reference
	I	II	III	IV	V	
<b>Interpretations</b>						
Code Interpretation - Written	X					
<b>Permits and Reviews</b>						
Special Use			X			<a href="#">17.158</a>
Evaluation of Conformance with Special Use Permit			X			
Administrative Approval		X				<a href="#">17.160</a>
Administrative Reduction		X				
Master Plan - Rural Area Uses			X			17.120*
*Code reviser's note: Chapter 17.120 LCC was repealed by Ord. 1292.						
Master Planned Industrial - Binding Site Plan			X			<a href="#">17.20A</a> , <a href="#">17.20B</a>
New Fully Contained Community Urban Growth Area	See Applicable Code Section					<a href="#">17.20D</a>
Master Planned Resort - Binding Site Plan			X			<a href="#">17.20E</a>
SEPA		X <sup>1</sup>				
<b>Nonconforming Use Determination</b>						
Continuation of Nonconforming Use	X					<a href="#">17.155.010</a> <sup>2</sup>
Expansion of a Nonconforming Use			X			<a href="#">17.155.020</a> <sup>2</sup>
Change to Another Nonconforming Use			X			<a href="#">17.155.040</a> <sup>2</sup>
<b>Boundary Line Adjustments and Land Divisions</b>						
Boundary Line Adjustment	X					<a href="#">16.02.040</a> (8)
Subdivision			X	X		<a href="#">16.05</a>
Short Subdivision	X					<a href="#">16.10</a>
Large Lot Subdivision	X					<a href="#">16.12</a>



**Table 17.05-2**  
**Process Required for Different Permit Types**

Type						
	I	II	III	IV	V	Code Reference
Simple Segregation	X					<a href="#">16.12.500</a> - <a href="#">16.12.530</a>
Recreational Vehicle Binding Site Plan			X			<a href="#">16.14</a>
Binding Site Plan			X			<a href="#">16.15</a>
Final Plat	See Applicable Code Section					<a href="#">16.05</a> (Long Plats), <a href="#">16.10</a> (Short Plats), <a href="#">16.12</a> (Large Lots)
Preliminary Plat Alteration/Amendment	See Applicable Code Section					<a href="#">16.05.140</a> (Subdivisions), <a href="#">16.15.070</a> (Binding Site Plan)
Final Plat Alteration/Amendment	See Applicable Code Section					<a href="#">16.02.090</a>
Plat Vacation	See Applicable Code Section					<a href="#">16.02.085</a>
Modifications and Variances						
Administrative Variance	X					
Variance			X			<a href="#">17.162</a>
Land Division Variance			X			<a href="#">16.02.095</a>
Plan and Code Amendments						
Site Specific Rezones/CP Map Amendments					X	
General Legislative Amendments (Zone, CP Text Changes, Nonspecific Site Amendments)					X	<a href="#">17.12</a>
Industrial Land Bank Comprehensive Plan Designation/Establishment of Zoning Criteria					X	<a href="#">17.20A</a>
Master Planned Resort Comprehensive Plan Designation/Establishment of Zoning Criteria					X	<a href="#">17.20E</a>
Resource Land of Local Importance Designation					X	<a href="#">17.30.560</a> , <a href="#">17.30.670</a> , <a href="#">17.30.850</a>

<sup>1</sup> SEPA follows the mailing notification of the underlying project permit. No SEPA mailing is required for Type I applications.

<sup>2</sup> These provisions apply, unless otherwise addressed in a resource land or critical areas chapter.

[Ord. 1269 §8, 2016]

#### **17.05.050 Preapplication.**

Applicants may request a preapplication meeting for all applications. The purpose of a preapplication is to conduct a review of the development application prior to submittal to the department. Preapplication review may include a discussion of the requirements for application completeness and review processes, permit or approval requirements, design standards, design alternatives, potential fees, environmental impact avoidance, other required permits, or other general development issues and questions from the applicant. To expedite development review, the department may invite all affected jurisdictions, agencies and/or special purpose districts to the preapplication meeting. [Ord. 1269 §8, 2016]

#### **17.05.060 Contents of application.**

(1) Except as provided elsewhere in this code, the department shall establish and may revise written submittal requirements for each type of project permit application required by this title. The department shall prescribe checklist forms, which shall clearly describe the material that must be submitted for an application to be accepted for processing.

(2) At minimum, a project permit application and any supplemental application shall include the following:

(a) A completed original project application form signed by the owner(s) of the property which is the subject of the application;

(b) A completed original supplemental application form;

(c) Parcel identification number;

(d) A copy of the preapplication meeting summary, if applicable;

(e) The applicable fee(s) adopted in LCC Title [18](#) for the application(s);

(f) If applicable, a State Environmental Policy Act Environmental Checklist;

(g) Permit-specific information required by submittal checklists distributed by the department in accordance with this section, or other relevant sections of Lewis County Code; and

(h) Any additional information, identified by the review authority needed to provide the department with sufficient information about the proposed project.

#### **17.05.070 Determination of completeness - Lapsed applications - Postponed applications.**

(1) Within 28 calendar days after receiving a project permit application, the department shall mail, electronically mail, or provide in person a written determination to the applicant, stating that either:

(a) The application is complete.

(b) The application is incomplete and what is necessary to make the application complete.



(2) Incomplete or Incorrect Applications. When an application is determined to be incomplete or incorrect, the review authority shall identify, in writing, the specific requirements or information necessary to constitute a complete application.

(a) When additional information is required, the applicant shall have 90 calendar days from the date of the written notification of incompleteness to submit the required information to the department. If the applicant does not submit the required information within the 90-day period, the project permit application shall automatically lapse.

(b) Prior to the lapse date, the applicant may request, in writing, an extension in order to provide the required information. The review authority may grant up to two three-month extensions if it is determined that the required studies or information warrants additional time. Financial hardship shall not be considered for extensions of deadlines.

(c) Upon submittal of the additional information, the review authority shall, within fourteen calendar days, issue a letter of completeness or, in accordance with subsection (2)(a) of this section, identify what additional information is required.

(d) Lapsed applications will not be further processed; however, they may be resubmitted as a new application with the submittal of full fees. Resubmittal of lapsed applications shall be governed by the regulations in effect at the time of the resubmittal.

(3) When an application is deemed complete, the review authority shall:

(a) Forward the application(s) for processing and the scheduling of a public hearing, if a hearing is required;

(b) Send a written notice to the applicant that acknowledges the completeness of the application, states the vesting date when applicable, lists the name and telephone number of a department contact person, and describes the expected review schedule, including the date of a hearing, if applicable; and

(c) Provide notice of the application, in accordance with LCC [17.05.080](#).

(4) The determination of completeness does not preclude the review authority from requesting additional information or studies either at the time of the notice of completeness or afterward if new information becomes required or if there are changes in the proposed project.

#### **17.05.080 Notice of application.**

(1) Timing. Within 14 days of issuing a letter of completeness under LCC [17.05.070](#), the county shall issue a notice of application for all applications that require public notice per Table 17.05-1. The notice of application and the SEPA threshold determination shall be issued at least 15 days prior to the date of a decision or a public hearing.

(2) Content. The notice shall be dated and shall include, but not be limited to, the information required in RCW [36.70B.110](#)(2) as hereafter amended.

(3) Distribution.

(a) Mailing. The director shall mail a copy of notices of application and hearings to:

(i) The applicant and the applicant's representative. Electronic mailing may be used.

(ii) Owners of property within a radius of 500 feet of the property which is the subject of the application; provided, that an expanded radius shall be required for master planned industrial developments per RCW [36.70A.367\(3\)\(k\)](#).

(A) The department shall use the records of the Lewis County assessor's office for determining the address of all of the owner(s) of record within the appropriate radius.

(B) The failure of a property owner to receive notice shall not affect the decision if the notice was sent in accordance with this subsection. A certificate or affidavit of mailing shall be evidence that notice was properly mailed to parties listed or referenced in the certificate.

(iii) County departments, and agencies with jurisdiction, including tribal governments.

(iv) Community groups or local governments that the administrator may identify as having an interest in the proposal.

(v) Other persons who request such notice in writing.

(b) Publication. When required per Table 17.05-1, the department shall publish a summary of the notice in a newspaper of general circulation, including the date, time and place of the proposed hearing, the nature and location of the proposal and instructions for obtaining further information.

(c) Posting. When required per Table 17.05-1, the department shall place a notice sign(s) on the project site that is clearly visible and readily readable from each right-of-way that provides primary vehicular access to the subject property. The county shall remove and properly dispose of the notices after a decision on the project.

(i) At minimum, the public notice signs shall state the nature and location of the proposal; instructions for obtaining further information; and, if applicable, the date, time, and place of the public hearing.

(ii) At least two days before any hearing, the person responsible for posting the sign shall execute and submit an affidavit to the review authority certifying where and when the sign notices were posted.

(d) For notices that are required to be mailed pursuant to this chapter, the department may substitute a postcard notification that includes a short summary of information and provides the recipient with instructions regarding obtaining a complete notice either electronically or in person.

#### **17.05.090 Vesting of permits.**

(1) Project Permit Applications Submitted After the Effective Date.

(a) A project permit application submitted after the effective date of the ordinance codified in this section shall be vested under the zoning and land use regulations in effect at the time of complete application.

(b) If the county has notified the applicant that the application is incomplete, the application shall not be deemed vested until the date the county notifies the applicant that the application is complete.



(c) Future building permits shall be subject to the building codes in effect at the time of the complete building permit application.

(2) Additional Provisions.

(a) Nothing herein shall restrict the county's authority to impose conditions on project permits pursuant to the State Environmental Policy Act (SEPA), Chapter [43.21C](#) RCW and WAC [197-11-600](#).

(b) Nothing herein shall be construed to restrict the county's ability, to the extent otherwise permitted by law, to apply new regulations to a project permit or project permit application.

**17.05.100 Consolidation of project permit applications.**

(1) Consolidation. Whenever possible, the department shall consolidate review for all project permit applications related to the same proposal to provide an integrated process and avoid duplication. Consolidated permit processing should generally follow the review, approval process and time frame of the highest numbered permit type represented among the consolidated permits, except that processing may be halted as needed for lower permit types when waiting on higher type permit review steps or actions. Type V is considered the highest and Type I is considered the lowest.

(2) Applicant to Request Individual Review. Applicants may request individual review of project applications that otherwise would be consolidated. Processing such a request will occur at the discretion of the administrator.

(3) Combined Public Meetings or Open Record Hearings. A public meeting or open record hearing required by this chapter may be combined with any public meeting or open record hearing that may be held on the project by another local, state, regional, federal, or other agency, in accordance with the provisions of Chapter [36.70B](#) RCW.

**17.05.110 Integration of State Environmental Policy Act (SEPA) review with review of project permit application.**

(1) Project permit applications and planned actions subject to the provisions of SEPA, Chapter [43.21C](#) RCW, shall be reviewed in accordance with the policies and procedures contained in Chapter [17.110](#) LCC and Chapter [197-11](#) WAC.

(2) To the maximum extent possible, SEPA review shall be combined and integrated in all project permit application processing.

**17.05.120 Public hearings.**

(1) No more than one open record public hearing shall be conducted for each project application, unless the application has been individually reviewed subject to LCC [17.05.100](#) or has been submitted as separate project permits.

(2) All hearing examiner hearings shall be conducted in accordance with LCC [2.25.120](#).

(3) All nonproject specific Type V permits shall follow the public workshop and hearing procedures in Chapter [17.12](#) LCC.

(4) All hearings for project specific Type V permits shall follow procedures similar to those articulated in LCC [17.12.050](#)(2); provided, that the hearing shall be a quasi-judicial hearing rather than a legislative hearing.

**17.05.125 Time frames for decisions.**

(1) Decisions for permits in Table 17.05-2, other than plats, shall be issued within 120 days of a complete application.

(2) Decisions on plats shall be issued in within the following number of days from a complete application:

(a) Ninety days for long plats.

(b) Thirty days for short plats.

(c) Thirty days for final plats.

(3) When the time frames above have or will be exceeded, staff shall send a letter to the applicant explaining why no decision on the proposal has been made. This letter should include a description of the estimated time frame necessary for the completion of the application, and be completed as early as possible before the conclusion of the time period.

(4) Exceptions. Exceptions to the time limits for a final decision include:

(a) Project permit application decisions that are dependent upon amendments to the comprehensive plan or development regulations, in which case the amendment shall be processed first;

(b) Any time required for the applicant to correct plans, perform studies, or provide additional required information;

(c) Cases when significant project revisions have been made or requested by the applicant, which do not constitute new applications, in which case the time period will be calculated from the time that the department determines the revised application to be complete;

(d) Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter [43.21C](#) RCW;

(e) Projects involving the siting of essential public facilities;

(f) Any remand to the public hearing body in Table 17.05-1 by the decision-making body; or

(g) Instances where an applicant has requested individual review of the application pursuant to LCC [17.05.100](#)(2).

**17.05.130 Notice of decisions.**

(1) Timing. Whenever a final decision has been made that requires a notice of decision, the review authority shall issue the notice within seven days of the final decision.

(2) Content. The notice of decision shall include, at a minimum, the following information:

(a) The decision on the project permit application.



(b) Any SEPA threshold determination made pursuant to Chapter [43.21C](#) RCW.

(c) The procedure for appeal, if any.

(d) A statement that the complete case file, including findings, conclusions and any conditions of approval, is available for review. The statement shall list the place, days and times when the case file is available and the name and telephone number of the department representative to contact about reviewing the file.

(e) The notice of decision may be a copy of the report or decision, if such report or decision contains the information required in this subsection (2).

(3) Distribution. The notice of decision shall be mailed to the following:

(a) The applicant.

(b) Any parties of record.

(c) Any agencies with jurisdiction over the project permit application or any agencies that commented on the project permit or legislative application.

(4) Exemptions. A notice of decision shall not be required for any project or legislative permit that does not require a notice of application.

**17.05.140 Duration of decisions.**

(1) Duration of Approval.

(a) All project permit approvals shall be valid for a period of three years, after which they shall automatically expire, unless otherwise stated.

(b) Preliminary approval of land divisions shall be valid for the period specified in RCW [58.17.140](#), after which it shall expire. Prior to expiration, a complete application for final plat approval meeting all the legal requirements and conditions of approval shall be made.

(c) Site development activity permits shall be subject to the duration and extension requirements set forth elsewhere within the code.

(2) Extensions.

(a) Phased Development Extensions. Type III and Type IV applications specifically and expressly approved for phased development may receive multiple two-year extensions from the phasing schedule in accordance with the criteria in subsection (2)(c) of this section, so long as at least one phase was given final approval within the two years prior to each such subsequent extension request. The first extension shall be processed as a Type I application; subsequent extensions shall be processed as a Type II application.

(b) Nonphased Development Extensions. Applications specifically approved for development may receive one one-year extension in accordance with the criteria in subsection (2)(c) of this section.

(c) Criteria for Extensions. The director may approve, approve with conditions, or deny any timely request for an extension based on the review of the following criteria. Extensions shall be processed as a Type I application.

(i) The extension request is submitted in writing at least 30 calendar days prior to the expiration of the permit or any prior extension approval;

(ii) The director finds there are no significant concerns presented with a granting of an extension, or those concerns can be adequately mitigated by minor revisions to the original approval;

(iii) The director finds that there is tangible progress being made; and

(iv) The director finds there are no significant changes in conditions which would render approval of the extension contrary to the public health, safety or general welfare.

(3) Effect of Expiration. Once a permit is expired, it cannot be used to support further development. New applications shall be subject to the regulations in effect at the time of the submittal of the application.

(4) Permit Denials. If a project permit application is denied, the department shall not accept a new application for substantially the same matter within one year from the date of the final county action denying the prior application, unless the denial was without prejudice, or in the opinion of the director, new evidence is submitted or conditions have changed to an extent that further consideration is warranted.

#### **17.05.150 Revocation of approval.**

(1) Any approval granted in accordance with the procedures of this chapter may be revoked if any one or more of the following grounds are established:

(a) The approval or permit was obtained by fraud.

(b) The use for which such approval or permit was granted is not being executed.

(c) The approval or permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval or permit, or in violation of any statute, resolution, code, law or regulation.

(d) The use for which the approval or permit was granted was so exercised as to be detrimental to the public health or safety, or to constitute a nuisance.

(2) The hearing examiner shall hold a hearing on any proposed revocation after giving written notice to the permittee and/or owners of property consistent with LCC [17.05.080](#).

#### **17.05.160 Appeals.**

(1) Appeals of Type I, II, III and IV proposals shall occur in accordance with the appropriate portion of LCC [2.25.130](#) or [2.25.140](#).

(2) Appeals of Type V proposals shall occur pursuant to Chapter [36.70A](#) RCW.

#### **17.05.170 Administration and interpretation.**



(1) Authority. Except as otherwise stated, the director is responsible for administering and interpreting the provisions of this title and those titles listed in LCC [17.05.030](#), as well as Lewis County county-wide planning policies, and Lewis County comprehensive plan. However, approval authority rests with various entities based on permit type, as identified in Table 17.05-1.

(2) Third Party Review. At any point during review of an application, the department may require, or the applicant may request, third party review in cases where additional professional or technical expertise is required due to scale or complexity and/or in cases where independent review is deemed necessary. All third party review shall occur at the applicant's expense.

(3) Interpretation.

(a) Director's Administrative Interpretation. The director may initiate a code interpretation whenever necessary and the interpretation will be made available pursuant to this chapter.

(b) Director's Informal Interpretation. The director may respond to informal inquiries from the public regarding code provisions in terms of applicability and interpretation prior to and outside of the context of a specific project permit application. These requests are neither subject to appeal nor binding on the department.

(c) Director's Formal Interpretation. Any person(s) may submit a formal request for a code interpretation from the director and the interpretation will be made available by the department pursuant to this chapter. Formal director interpretations are Type I applications and may be appealed. A fee based on LCC Title [18](#) shall be assessed.

(d) Permanent Record. All code interpretations and hearing examiner decisions on such interpretations shall be retained by the department. Further, they may be prioritized and considered in the next applicable code update. Code interpretations shall be made available to the public and available for inspection.

#### **17.05.180 Fees.**

The Lewis County schedule of fees is established by local resolution on file with the board of county commissioners and codified under LCC Title [18](#). [Ord. 1269 §8, 2016]

#### **17.05.190 Refund of permit fees.**

Refunds for permits subject to this chapter shall occur in accordance with the Lewis County schedule of fees established by local resolution on file with the board of county commissioners and codified under LCC Title [18](#).

# BOCC AGENDA ITEM SUMMARY

**Resolution:**

**BOCC Meeting Date:** April 13, 2021

**Suggested Wording for Agenda Item:**

**Agenda Type:** Legal Notice

Notice of Public Hearing to consider Ordinance 1325, an ordinance to amend Chapter 2.25, Chapter 16.05 and Chapter 17.05 of the Lewis County Code

**Contact:** Pat Anderson

**Phone:** 360.740.2677

**Department:** CD - Community Development

## Description:

Notice of Hearing for Ordinance 1325, amending LCC 17.05, Subdivision Process

## Approvals:

User	Status
PA's Office	Pending

## Publication Requirements:

**Publications:**

## Additional Copies:

Lee Napier, Brianna Uy, Pat Anderson

## Cover Letter To: