

Planning Commission Workshop



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STAFF REPORT

DRAFT AMENDMENTS TO LCC 17.12 & 17.05

Date: August 26, 2022
Staff: Mindy Brooks, Senior Long Range Planner
Attachments: A – Proposed Amendments to LCC 17.12
B – Proposed Amendments to LCC 17.05

SUMMARY

Lewis County Code (LCC) 17.12 includes the rules for public participation related to amendments to the Lewis County Comprehensive Plan and development regulations. The previous public participation rules were replaced in 2021. This is a clean-up of the code to remove minor mistakes, add clarification where needed and to create a more efficient program. The relationship between LCC 17.12 and LCC 17.05, General Provisions, is also clarified.

BACKGROUND

Amendments to the Lewis County Comprehensive Plan or development regulations that implement the plan are Type V non-project actions, as defined by LCC 17.05, General Provisions. Type V non-project actions require a public hearing before the Lewis County Planning Commission prior to a decision by the Lewis County Board of County Commissioners (BOCC).

LCC 17.12 describes the process and requirements for approving Type V non-project actions, which includes noticing the public and opportunities for the public to provide comments and testimony to the decision makers. In 2021, Lewis County Community Development proposed an overhaul to LCC 17.12 replacing much of the previous language. The amendments were adopted by BOCC in Ordinance 1330 on October 26, 2021.

For the past year, Lewis County has implemented the updated LCC 17.12, Public Participation Program, and have documented a number of inconsistencies and places where clarification is necessary. This is expected with new zoning codes – often a clean-up is required within one to two of years of implementation.

In addition, in this report, staff are introducing a new approach to explaining proposed code amendments. The approach is called “code and commentary.” In the attachments, each edit to the code is explained in commentary on the opposite page. We hope this will help commissioners and the public better understand the rationale for each proposed amendment. *Note*, it will be easiest to review the attachments electronically using Adobe settings: “two page view” and “show cover page.”

ISSUES AND RECOMMENDATIONS

Along with many minor edits for consistency and clarification, there are a few substantive changes that are recommended by staff.

1. Making LCC 17.12 Stand Alone. Today, it is necessary to review both LCC 17.05 and 17.12 to see the procedures for filing, noticing and commenting on Type V non-project actions. Staff recommending putting all filing, noticing and commenting rules in LCC 17.12. This will create duplication in some situations but will eliminate the need to look at both code sections.
2. Filing Amendments. LCC 17.12.030(1) and (3) describes whom may file for a Type V non-project action. The existing code allows anyone to file; however, in practice, Community Development will only accept filing for amendments to a city's urban growth area (UGA) to come directly from the city or the county. An individual person may not file for a UGA amendment. Staff recommend making this clear in the code.
3. The Docket. Staff recommend adding language to describe docketing, which is a process of establishing and maintaining a list of proposed amendments to the comprehensive plan or development regulations. Creating and maintaining a docket will help staff, Planning Commission and BOCC develop annual work plans and manage work load.
4. Providing Physical Copies. Before the pandemic, physical copies of all Type V non-project action proposals were provided to libraries and senior centers throughout the county. During the pandemic, this practice was ended and all proposal were posted online. In addition, staff offered to print a copy for anyone who asked. Staff recommend continuing the new practice. Reviewing proposals online is convenient and has become common practice over the past two years. In addition, this approach will save paper by not printing 10 copies of all proposals. Instead, only those people who request a physical copy will receive one. All notices include contact information for requesting a copy, including staff name, phone number and email.

NEXT STEPS

The Planning Commission is scheduled to hold a workshop on September 13, 2022 to discuss this proposal. Staff will present the code amendments and answer commissioner questions. Following the workshop, Planning Commission will confirm the public hearing date tentatively set for October 11, 2022 to receive testimony on amendments to LLC 17.12 and 17.05. If the date is confirmed, staff will post a notice of hearing on September 22, 2022 to The Chronicle and online.

Alternatively, after the workshop, if commissioners are not ready to proceed to a public hearing, the Planning Commission may choose to hold another workshop and the public hearing date would be shifted out one month.

After close of the public hearing, the Planning Commission will deliberate and vote to transmit the proposed amendments to the Board of County Commission. After the Board of County Commissioners reviews the proposal, they will hold a public hearing to receive testimony before voting to adopt the amendments.

Commentary

ATTACHMENT A – LEWIS COUNTY CODE 17.12 AMENDMENTS TO COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS

The title of Section 17.12 is changed from Public Participation Program to Amendments to Comprehensive Plan and Development Regulations for clarity. The section is specifically about the process to amend the Lewis County Comprehensive Plan and development regulations. Much of the section has been and continues to be related to public participation, including noticing requirements; however, there are many other requirements included in this section.

The other reason why the title is changed is because multiple other Title 17 sections include requirements for public participation. It is confusing to have one full section named "public participation" when it only relates to certain governmental actions.

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Chapter 17.12
~~PUBLIC PARTICIPATION PROGRAM~~
AMENDMENTS TO COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS

Sections:

- 17.12.010 Purpose and applicability.
- 17.12.020 ~~Amendments amending the comprehensive plan or development regulations~~ Applicability.
- 17.12.030 ~~Amendments—~~Filing requirements and docketing.
- 17.12.040 ~~Amendments—~~Department review, determination of completeness and staff report.
- 17.12.050 Notice of application.
- 17.12.0560 ~~Amendments—~~Public hearing notice.
- 17.12.0670 ~~Amendments—~~Review for quasi-judicial actions.
- 17.12.0780 ~~Amendments—~~Review and recommendation by ~~planning~~ the commission.
- 17.12.0890 Review by state agencies.
- 17.12.090100 ~~Amendment—~~Review and decision by the board.
- 17.12.1010 Approval Criteria
- 17.12.120 Time frames for decisions.
- 17.12.130 Notice of decisions.
- 17.12.140 Appeals.
- 17.12.150 Administration and interpretation.
- 17.12.160 Refund of fees.
- 17.12.170 Errors not grounds for invalidation.

Commentary

17.12.020

Non-substantive. Edits are for consistency and clarification. All of the amendments covered by this section require approval by the Lewis County Board of County Commissioners making them governmental actions.

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17.12.010 Purpose and applicability.

The purpose of this chapter is to establish procedures for amending the comprehensive plan and the development regulations found in LCC Titles 16 and 17 and sets forth the responsibilities of the department of community development ("department"), the planning commission ("commission"), and final approval by the board of county commissioners ("board").

17.12.020 ~~Amendments amending the comprehensive plan or development regulations~~ Applicability.

- (1) This chapter applies to the following Type V application governmental actions, that which require a public hearing before the ~~planning~~ commission and a decision by the board of county commissioners and is one or more of the following types:
 - (a) An amendment to a comprehensive plan goal or policy;
 - (b) An amendment to the comprehensive plan maps;
 - ~~(b)c~~ An amendment to the shoreline master program;
 - ~~(c)d~~ An amendment to the ~~comprehensive plan maps~~ countywide planning policies; or
 - ~~(d)e~~ An amendment to development regulations, including the zoning map.
- (2) Each amendment type above is a legislative matter, except for ~~an amendment for a site-specific~~ rezoning amendment to a comprehensive plan map or zoning map, which is a quasi-judicial matter ~~that requires both an amendment to the comprehensive plan and development regulations.~~
- (3) The ~~county board~~ must adopt all amendments to the comprehensive plan simultaneously each year and may not adopt amendments more frequently than once per year, except for amendments that qualify for one of the following exceptions:
 - (a) The initial adoption of a subarea plan;
 - (b) Adoption or amendment of the shoreline master program under procedures set forth in Chapter 90.58 RCW;
 - (c) The amendment of the capital facilities element concurrent with adoption or amendment of the county budget;
 - (d) Amendments to development regulations consistent with the comprehensive plan and countywide planning policies;

Commentary

17.12.030(1)-(2)

Amendments to city urban growth areas are required to meet rules set forth by the Washington State Growth Management Act related to demonstrating that the city needs the land to accommodate the 20-year population forecast and that the city can provide public services (e.g., water, sewer and transportation) over the 20-year planning horizon. The city provides documentation that the state rules are met. Therefore, only a city may proposed an amendment to their urban growth area.

Urban growth areas may also be applied to geographies that do not have an incorporated city. In this case, it is the county's responsibly to demonstrate that the state rules are met. The Lewis County Community Development Department or Board of County Commissioner may propose non-city urban growth area amendments.

Other amendments to the Lewis County Comprehensive Plan goals, policies or maps, Shoreline Master Program, countywide planning policies or development regulations and zoning maps may be proposed by any person or entity, including cities and the County.

17.12.030(3)

Cities typically hold a city council meeting in the spring of each year to consider property owner proposals to be included in the city's urban growth area. City staff and the city council evaluate the proposals against the appropriate state rules before submitting a request to Lewis County. To allow for the city's public process, the due date for city-initiated amendments to urban growth areas is set as the last business day of March.

Other proposal for amendments to comprehensive plan goals, policies or maps, Shoreline Master Program, countywide planning policies or development regulations and zoning maps do not require a public process prior to being submitted to the County for consideration. Therefore, those are due earlier than city-initiated urban growth area amendments.

17.12.030(4)

In order to make LCC 17.12 standalone from LCC 17.05, the application requirements must be included in LCC 17.12. Many of the application requirements of LCC 17.05 are not applicable to Type V non-project actions, so only those that are relevant are included here.

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- (e) Amendments needed to resolve an appeal of the comprehensive plan filed with the Growth Management Hearings Board or the court; or
- (f) Amendments necessary in cases where the board finds an emergency exists.

17.12.030 Amendments—Filing requirements and docketing.

- (1) ~~An amendments to the comprehensive plan~~ Any person or entity may file an amendment to the items listed in 17.12.020(1), except an amendment to an urban growth area boundary may be filed by only the following:
 - ~~(a) — Any person or entity;~~
 - ~~(b)a~~ The department; or
 - ~~(c)b~~ The commission or board, by majority vote; or
 - ~~(d)~~ A city council.
- (2) The department encourages applicants for an amendment to request a preapplication meeting as provided under LCC 17.05.050 before formally filing an application. Except for quasi-judicial matters, the department or applicant may discuss proposals with the ~~planning~~ commission or board before an application is submitted. In quasi-judicial matters, no such discussion is permitted; all contact with the commission or board on ~~specific~~ quasi-judicial proposals shall be on the record in writing or at ~~the a public hearing meeting.~~
- (3) ~~Except as provided under LCC 17.12.020(3), an~~ Quasi-judicial amendments, except an amendment to an urban growth area, must be filed with the department on forms provided by the department on or before the last business day of December for inclusion on the following year's docket, except that an county-initiated amendment is not subject to this deadline. City-initiated amendments to urban growth areas must be provided to the department on or before the last business day of March to be added to the current year's docket.
- (4) At a minimum, for quasi-judicial amendment the applicant must provide the following information:
 - ~~(b)~~ A completed application form signed by the owner(s) of the property, or properties, which is the subject of the application, except an amendment to an urban growth area. An application to amend an urban growth area shall be signed by the department, commission, board or city council.
 - ~~(c)~~ Parcel(s) identification number.
 - ~~(d)~~ A State Environmental Policy Act Environmental Checklist.

Commentary

17.12.030(5)

The explanation of combining actions is moved up from 17.12.040 and clarified that SEPA review will also be combined, if SEPA review is required.

17.12.030(6)

Many jurisdictions in Washington use a docket to set a schedule for considering Type V non-project actions. This is useful because amendments to the comprehensive plan map must be considered concurrently and may only be submitted to the Washington State Department of Commerce once per year. Community Development staff currently maintain an unofficial docket. The code will now require Planning Commission to adopt the annual docket. The docket may be amended by the Planning Commission at any time. The most likely time to amend the docket will be after the first business day of April if applications are incomplete and need to be moved to the following year's docket.

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- (e) Findings against applicable Growth Management Act rules and relevant sections of the Lewis County Code and county-wide planning policies.
- (f) Any additional information, identified by the review authority needed to provide the department with sufficient information about the proposal.
- (4) An amendment, ~~excepting those filed by the county department, commission or board,~~ must include all fees required by the adopted fee schedule. 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.
- (5) Where a development regulation amendment requires a comprehensive plan amendment, the department shall process both amendments simultaneously. State Environmental Policy Act review, when required, shall be combined and integrated with the underlying permit application processing.
- (6) Docketing refers to the process of establishing and maintaining a list of proposals to amend comprehensive plans or development regulations administered by the county pursuant to the Washington State Growth Management Act (RCW 36.70A.470). Dockets are useful for providing information about amendment proposals that may be considered by the commission and board in advance of public hearings. The docket is established as follows:
 - (a) The department shall maintain a proposed docket for amendments to items listed in 17.12.020(1).
 - (i) The department, commission or board may place an amendment on the proposed docket at any time.
 - (ii) The department shall place applicant-initiated or city-initiated amendments on the proposed docket, pending determination of completeness.
 - (b) The department will present the proposed docket to the commission at least once per year, on or about the first business day of January, and the commission may vote to adopt the docket.
 - (c) The commission may vote to add or remove items from the docket at any time.

~~The department shall review the completeness of the amendment received on or before the last business day of December before adding it to the docket. If the department determines that an application remains incomplete by the following first day of April, the department shall consider the application lapsed.~~

Commentary

17.12.040(1)

The paragraph is moved from 17.12.030 and clarity is provided related to the last day for completing the application, which is the first day of April and coincides with the timeline for city-initiated amendments to urban growth areas. Any new requests after the first day of April, or any incomplete applications as of that date, will be moved to the following year's docket.

17.12.040(2)

The underlined text is copied from 17.05.070 with clarification that the timeframes only apply to quasi-judicial amendments that are not an amendment to an urban growth area. Other Type V governmental actions do not have specified timelines for completing review and adoption.

The timelines for reviewing for completeness and applicant response to incomplete or incorrect information is consistent with LCC 17.05.

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17.12.040 Department review, determination of completeness and staff report.

- (1) The department shall review the completeness of the amendment received on or before the last business day of December before adding it to the docket for the subsequent year. If the department determines that an application remains incomplete by the following first business day of April, the department shall consider the application lapsed and will recommend removing it from the docket or postponing it until the following year's docket.
- (~~1~~2) The department shall review complete applications for quasi-judicial amendments, except an amendment to an urban growth area, comprehensive plan and development regulation amendments as provided below:
- (a) ~~Where a development regulation amendment requires a comprehensive plan amendment, the department shall process both amendments simultaneously.~~
- (b) Within 28 calendar days after receiving an application, the department shall mail, electronically mail, or provide in person a written determination to the applicant, stating that either:
- (i) The application is complete.
- (ii) The application is incomplete and what is necessary to make the application complete.
- (c) 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.
- (i) 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.
- (ii) 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.
- (iii) Upon submittal of the additional information, the review authority shall, within 14 calendar days, issue a letter of completeness or, in accordance with subsection (c)(i) of this section, identify what additional information is required.

Commentary

17.12.040(2)(e)

During the Planning Commission or Board of County Commissioner steps it is common for commissioners to request additional information related to the approval criteria.

17.12.040(4)

The information is reordered for clarity and to include a statement that other approval criteria beyond 17.12.110 may be relevant. For example, if the applicant is requesting a rezone to a Mining Resource Land, then LCC 17.12.720, Mining Opt-in, is also relevant to the decision.

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- (iv) 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.

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

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

- (ii) 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

- (iii) Provide notice of the application, in accordance with LCC 7.12.050.

(e) 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.

~~(b3)~~ The department shall complete environmental review for each amendment, consistent with the requirements of Chapter 43.21C RCW and Chapter 17.110 LCC.

~~(i)a~~ After receipt and review of the environmental checklist for an amendment, the department must issue a threshold determination.

~~(i)b~~ If environmental review determines that the amendment may have a significant impact on the environment, and if acceptance of a final environmental impact statement is not complete by the first business day of April, the department shall move that amendment for consideration until the following year's docket.

~~(c4)~~ The department shall prepare a staff report that includes recommendations and/or options for each docketed amendment. ~~The department shall forward both the report and the result of the environmental review to:~~

(a) The staff report shall evaluate the proposed amendment(s) in relationship to the approval criteria under LCC 17.12.110 and any other relevant sections of the Lewis County Code. If the proposed amendment includes land within a city's urban growth area, the staff report shall also address any comments from the city regarding consistency with the applicable city comprehensive plan and the ability of the city to provide needed utility services.

Commentary

17.12.050

The underlined text is copied from 17.05.080 with specifications for Type V permits.

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(b) The department shall forward both the report and the result of the environmental review to:

(i) The ~~planning~~ commission;

(ii) The applicant and the applicant's designated representative; and

(iii) To the applicable city staff if the proposed amendment applies to land within a city's urban growth area.

~~(d) The staff report shall evaluate the proposed amendment(s) in relationship to the approval criteria under LCC 17.12.100. If the proposed amendment includes land within a city's urban growth area, the staff report shall also address any comments from the city regarding consistency with the applicable city comprehensive plan and the ability of the city to provide needed utility services.~~

17.12.050 Notice of application.

(1) For a quasi-judicial amendment, except an amendment to an urban growth area, within 14 days of issuing a letter of completeness under 17.12.040, the county shall issue a notice of application.

(2) The notice of application will be distributed to the applicant and the applicant's representative, the appropriate city when the proposed amendment is within or would expand the urban growth area, county departments, agencies with jurisdiction including tribal governments, and properties as described in 17.12.060(4)(a)(i) and (ii).

(3) The department shall place a notice sign on the project site in a conspicuous location that is clearly visible and readily readable from a public right-of-way that provides primary vehicular access to the subject property. The department shall remove and properly dispose of the notice after the comment period is closed.

(4) The notice shall include, but not be limited to, the information required in RCW 36.70B.110(2).

(5) The department shall publish a summary of the notice in the official county newspaper, including the nature and location of the proposal, the date public comments are due, and instructions for obtaining further information.

17.12.0560-Amendments— Public hearing notice.

(1) The department shall publish notice of the public hearing ~~at least once~~ in the official county newspaper and on the Lewis County website at minimum 15 calendar days before the ~~planning commission public-scheduled~~ hearing. The notice shall include:

(a) A summary of the amendment;

Commentary

17.12.060(2)

Prior to the COVID pandemic, physical copies of proposals were provided to libraries and senior centers across the county. This practice was ended in 2020 when libraries and senior centers were closed to the public due to the pandemic. For two years, copies of proposals were provided online on the Community Development's webpage and physical copies were provided upon requests to members of the public. The legal notice of hearing states how the public can view the proposal and how to receive a physical copy.

This code amendment formalize the new practice of providing the proposal online for the public to review. The 15-day minimum is based on state law for noticing the public of hearings.

17.12.060(4)

In 2021, Planning Commission decided to require a different noticing requirement for properties in and outside of a limited area of more intense rural development (LAMIRD). Prior to 2021, the noticing requirement was for properties within 500 feet of the property where the amendment is proposed. Planning Commission felt that geography was too narrow for rural areas because lots are very large. Planning Commission proposed and Board of County Commissioners approved expanding the noticing requirement to $\frac{1}{4}$ mile for amendments to properties that are located outside a LAMIRD. This code amendment clarifies the previous change.

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- (b) The date, time, and place of the hearing;
 - (c) A statement that documents pertaining to the amendment, including a staff report and SEPA determination if applicable, are available for public review, including where the public may access them; and
 - (d) An ~~general~~ explanation of the process for submitting comments.
- (2) The department shall post the amendment, staff report and SEPA determination, if applicable, to the county's webpage at a minimum 15 calendar days before the scheduled hearing. The posting shall include the name and contact information of the department representative to contact to provide receive a physical copy of the amendment and related materials. ~~to:~~
- (a) ~~Timberland Regional Libraries located at: Chehalis, Centralia, Salkum, Randle, and Winlock; and~~
 - (b) ~~Lewis County senior centers located at: Morton, Toledo, Twin Cities (Chehalis), Packwood, and Winlock.~~
- (3) The ~~county~~ department shall send notice to the applicant and the applicant's representative, the appropriate city, when the proposed amendment is within or would expand the urban growth area, and to agencies with jurisdiction, school districts, and fire districts that will potentially be affected by the proposed amendment at least 15 calendar days prior to the hearing.
- (4) For public hearings involving a quasi-judicial amendment ~~application~~, the ~~county~~ department shall provide the following notice in addition to the requirements of subsection (1) through (3) of this section:
- (a) At least 15 calendar days prior to the schedule hearing, ~~the county department~~ shall mail notice to ~~the applicant and the applicant's representative, agencies with jurisdiction, and to property owners~~ as follows:
 - (i) For quasi-judicial amendments located outside a LAMIRD, to the comprehensive plan and development regulations: At least 15 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within one-quarter mile of the external boundaries of the subject property as shown by the records of the county assessor; or
 - (ii) For quasi-judicial amendments located within a LAMIRD, except, if the subject property is located within a LAMIRD, the hearing notice shall be mailed to all property owners within 500 feet of the external boundaries of the subject property as shown by the records of the county assessor.

Commentary

17.12.080(4)

Amendments to comprehensive plan maps must be considered concurrently and may only be submitted to the Washington State Department of Commerce (Commerce) once per year.

Following recommendation by Planning Commission, proposals are forwarded to Commerce for a mandatory 60-day review. Once the 60-day review is complete and if there are no concerns, the proposal is then forwarded to the Board of County Commissioners (BOCC). BOCC's process takes a minimum of six weeks to complete due to noticing requirements. If a proposal is submitted to Commerce on September 1st, review will be completed by October 31st. If the final county adoption process is begun on November 1st, adoption can be completed by December 15th. Final submittal to Commerce can take place before December 31st. Therefore, Planning Commission should make their recommendations by end of August or the proposal should be moved to the following year's docket.

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- (b) The ~~county department~~ shall post a sign as described in 17.12.050(3) giving notice of the hearing ~~in a conspicuous location on the property~~ at least 15 calendar days prior to the scheduled hearing.

17.12.0670 Amendments—Review for quasi-judicial actions.

An application for a site-specific comprehensive plan map and zoning map amendment is a quasi-judicial action as defined in RCW 42.36.010 and is subject to the appearance of fairness doctrine, Chapter 42.36 RCW. For all quasi-judicial amendments, the commission and board ~~of commissioners~~ shall process the application in accordance with Chapter 42.36 RCW in addition to all other requirements of this chapter.

17.12.0780 Amendments— Review and recommendation by planning the commission.

- (1) The commission shall hold at least one public hearing on an amendment to consider public comment before beginning its deliberations.
- (2) At the completion of its deliberations, the commission shall vote to recommend adopting, not adopting, or amending the proposed plan, plan amendments or development regulation in relationship to the approval criteria under LCC 17.12.400110.
- (3) The commission recommendation shall include findings of fact, the reasons for the recommendation, and decision.
- (4) Final recommendations on amendments by the commission should be complete and forwarded to the board ~~on or about October 1st~~ by the last business day of August. If the commission has not made a recommendation by the last business day of August, the amendment shall be moved to the following year's docket.

17.12.0890 Review by state agencies.

- (1) At least 60 days before the board reviews the recommendation of the commission, the department shall issue a notice of intent to adopt an amendment to the Department of Commerce.
- (2) The department will forward the commission recommendations and all state agency comments to the board ~~on or about~~ by the first business day of December 1st.

17.12.090100 Amendments—Review and decision by the board.

- (1) Upon receipt of a recommendation from the commission and after the 60-day review period by state agencies, the board shall consider and act on ~~all amendments concurrently~~. Final action by the board on amendments should occur on or about the following February 1st. Except as provided under LCC 17.12.020(3), the board shall consider all proposals concurrently to evaluate the cumulative effect of the various amendments.

Commentary

17.12.100

Sections (2)-(4) are consolidated and clarified in a new (2).

Section (3). Although the preferred approach is to complete all amendments within the same calendar year, state rules do allow for the final decision to be made in January of the following year. This allows the hearings process to continue if there are any short delays after the Planning Commission makes their recommendation. For example, if during Washington State Department of Commerce 60-day review, there are a few issues to resolved prior to submitting the recommendation to the Board of County Commissioners for final approval.

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- ~~(2) The board shall consider all proposals concurrently to evaluate the cumulative effect of the various amendments.~~
- ~~(3) If the board agrees with the recommendation(s) of the commission, it shall adopt the amendment(s) by ordinance consistent with the commission's recommendation.~~
- ~~(4) If the board does not agree, either in whole or in part, with a recommendation of the commission, the board may proceed as follows:~~
- ~~(a) The board of commissioners may hold a public hearing with notice as provided under LCC 17.12.050(1) and (3).~~
 - ~~(b) Upon conclusion of the public hearing, the board shall deliberate and act on the amendment when it reaches a decision. The board may:
 - ~~(i) Adopt the amendment with modifications by ordinance that includes findings of fact;~~
 - ~~(ii) Reject the amendment; or~~
 - ~~(iii) Remand the proposed amendment to the planning commission for further review for the next year's docket.~~~~
- (2) The board shall hold a public hearing with notice as provided under LCC 17.12.060. Upon conclusion of the public hearing, the board shall deliberate and act on the amendment. The board may:
- (a) Adopt by ordinance the commission's recommendation;
 - (b) Adopt by ordinance the commission's recommendation with modifications that include further findings of fact;
 - (b) Reject the commission's recommendation; or
 - (c) Remand the proposed amendment to the commission for further review on the following year's docket.
- (3) Final action by the board on amendments on quasi-judicial actions should occur by the last business day of January. If the board has not made a decision by the last business day of January, the amendment shall be combined with the current year's docket.

Commentary

17.12.110

The edit clarifies that all of the criteria need to be met.

17.12.120

Under LCC 17.05, Type I - IV permit applications have specific time frames for decisions to be made. However, Type V governmental actions do not have specific time frames because the proposals are large in scope, e.g., amending the comprehensive plan map to change zoning designations, and require many more steps, including two hearings - one with Planning Commission and one with the Board of County Commissioners. Some Type V governmental actions can take more than one year to come to a decision, particularly if the proposal is moved to a subsequent year's docket.

17.12.130

This text is copied from 17.05.130 and clarified for Type V governmental actions.

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17.12.1010 Approval criteria.

- (1) To approve a comprehensive plan amendment, the ~~planning~~ commission and the board of ~~commissioners~~ shall find that all of the following are met:
 - (a) The amendment conforms to the requirements of the Growth Management Act, is consistent with the county-wide planning policies and the comprehensive plan, including any interlocal planning agreements, if applicable.
 - (b) The application and any studies submitted to the department, the ~~planning~~ commission, and the board of ~~commissioners~~ demonstrates a need for the amendment.
 - (c) The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:
 - (i) The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan; ~~and~~.
 - (ii) The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.
 - (iii) The anticipated impact upon designated agricultural, forest and mineral resource lands.
 - (b) The amendment does not include or facilitate spot zoning.
- (2) To approve an amendment to the development regulations, the ~~planning~~ commission and board of ~~commissioners~~ shall find that the amendment is consistent with the comprehensive plan and in the public interest.

17.12.120 Time frames for decisions.

There is no time frame for decisions pursuant to this chapter.

17.12.130 Notice of decisions.

- (1) The final board decision shall be noticed as follows:

Commentary

17.12.140

This text is moved from 17.05.160.

17.12.150

This text is copied from 17.05.170.

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with a ~~strike through~~ and code text to be added is shown with an underline.*

- (a) Published in the official county newspaper.
 - (b) Mailed to the applicant, any parties of record, and any agencies with jurisdiction that provided comments on the proposal.
- (2) The notice of decision shall include, at a minimum, the following information:
- (a) The a summary of the decision.
 - (b) A statement that ordinance and exhibits are available for public review and where the public may access them.
 - (c) The time frame for appeals, if any.
 - (d) The name and contact information of the department representative to contact about reviewing the file.

17.12.140 Appeals.

Appeals shall occur pursuant to Chapter 36.70A RCW.

17.12.150 Administration and interpretation.

- (1) Except as otherwise stated, the director is responsible for administering and interpreting the provisions of this Chapter, as well as Lewis County county-wide planning policies, and Lewis County Comprehensive Plan. However, approval authority rests with the board.
- (2) 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) All code interpretations 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.

Commentary

17.12.160

This text is copied from 17.05.190

17.12.170

All state and federal laws must be met and if those rules are not met it could result in invalidation of amendments considered and adopted under this chapter. However, this chapter sets forth additional requirements beyond the state and federal rules. The additional requirements are intended to encourage public participation, clarify timelines and to provide clear approval criteria for considering amendments. As long as the intent of the local requirements is met and all state and federal requirements are met in full, then any errors related to this chapter shall not invalidate adopted amendments.

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with a ~~strike through~~ and code text to be added is shown with an underline.*

17.12.160 Refund of fees.

Refunds for applications 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.

17.12.170 Errors not grounds for invalidation.

Errors in exact compliance with this chapter, or specific public participation programs developed for specific amendments, shall not constitute grounds for invalidation of any comprehensive plan amendment, development regulation, or other legislation adopted under this chapter so long as the spirit of the procedures is observed, unless otherwise provided by state or federal law.

Commentary

ATTACHMENT B – LEWIS COUNTY CODE 17.05 GENERAL PROVISIONS

Changes to LCC 17.05 are for consistency between 17.05 and 17.12.

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with a ~~strike through~~ and code text to be added is shown with an underline.*

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.

Commentary

17.05.040(1)(e)

This edit is for code consistency. Subsections (a) - (d) do not explain what actions are Type I, Type II, Type III or Type IV. Rather, the code section that describes the action also states what project permit application type is required. This is true for Type V as well. Lewis County Code Chapter 17.12 describes the actions and what permit application is required.

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CHAPTER 17.05, GENERAL PROVISIONS

17.05.010 Statutory authority.

[No change]

17.05.020 Statement of purpose.

[No change]

17.05.030 Applicability.

[No change]

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 governmental actions ~~that are those that~~ require a public hearing before the planning commission and a decision by the board of county commissioners. The process and noticing requirements for the amendments ~~is are~~ articulated in Chapter 17.12 LCC, ~~though noticing requirements are included within this section; if there is a conflict Chapter 17.12 supersedes Chapter 17.05.~~
 - ~~(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.~~

Commentary

Table 17.05-1

Noticing requirements are provided in Lewis County Code 17.12. Footnote 1 is updated to reference 17.12. Footnote 3 is removed because all noticing requirements for Type V actions are found in 17.12 and include when on-site noticing is required.

Prior to the COVID pandemic, physical copies of proposals were provided to libraries and senior centers across the county. This practice was ended in 2020 when libraries and senior centers were closed to the public due to the pandemic. For two years copies of proposals were provided online on the Community Development's webpage and physical copies were provided upon requests to members of the public. The legal notice of hearing states how the public can view the proposal and how to receive a copy. Lewis County Code 17.12 is amended to codify the new practice of providing copies online. This amendment is to maintain consistency between code sections.

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with a ~~strike through~~ and code text to be added is shown with an underline.

~~(ii) Nonproject legislative actions include modifications to development regulations, the comprehensive plan, or zoning map that affect larger groups of parcels. 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**

	I	II	III	IV	V ¹
REQUIRED PUBLIC NOTICE²					
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 ³
Notice Posted on Road Frontages		X	X	X	X ³
Notice Published in Newspaper			X	X	X
Notice Posted at Libraries and Senior Centers					X
PUBLIC HEARING					
Planning Commission					X
Hearings Examiner			X	X	
DECISION-MAKING BODY					
Administrator	X	X			
Hearing Examiner			X		
Board of County Commissioners				X	X
APPEAL					
To Hearing Examiner (as Specified in LCC 2.25.130)	X	X			
To Appropriate Court/Hearings Board (as Defined in LCC 2.25.140)			X	X	X

1 ~~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. Please refer to 17.12 for noticing requirements. Where there is a conflict, the noticing requirements of 17.12 supersede Table 17.05-1.~~

2 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.

3 ~~Notice required on-site and to neighbors when part of a project-specific amendment.~~

Commentary

17.05.060

Contents of Type V permit applications are described in Lewis County Code 17.12.

17.05.070

For code consistency, all noticing requirements for Type V permits are found in Lewis County Code 17.12.

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with a ~~strike through~~ and code text to be added is shown with an underline.

Table 17.05-2
Process Required for Different Permit Types

[No Change]

17.05.050 Preapplication.

[No change]

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) Except for Type V governmental actions, which are addressed in Chapter 17.12 LCC, Aat 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.

[No change]

Commentary

17.05.080

For code consistency, all noticing requirements for Type V permits are found in Lewis County Code 17.12.

17.05.120

For code consistency, all public hearings requirements for Type V permits are found in Lewis County Code 17.12.

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with a ~~strike through~~ and code text to be added is shown with an underline.

17.05.080 Notice of application.

[No change]

17.05.090 Vesting of permits.

[No change]

17.05.100 Consolidation of project permit applications.

[No change]

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

[No change]

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 governmental actions 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 17.12.070; provided, that the hearing shall be a quasi-judicial hearing rather than a legislative hearing.~~

Commentary

17.05.125

For code consistency, all noticing requirements for Type V permits are found in Lewis County Code 17.12.

17.05.130

For code consistency, all noticing requirements for Type V permits are found in Lewis County Code 17.12.

17.05.160

For code consistency, all noticing requirements for Type V permits are found in Lewis County Code 17.12.

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17.05.125 Time frames for decisions.

[No change]

17.05.130 Notice of decision.

[No change]

17.05.140 Duration of decisions.

[No change]

17.05.150 Revocation of approval.

[No change]

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.

[No change]

17.05.180 Fees.

[No change]

17.05.190 Refund of permit fees.

[No change]