

ORDINANCE NO. 1287/2003

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, AMENDING TITLE 21 OF THE MONROE MUNICIPAL CODE IN ORDER TO REVISE CONFLICTING, INCONSISTENT, AND OUTDATED PROVISIONS OF THE CITY'S DEVELOPMENT REVIEW PROCEDURES; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in the course of reviewing several development applications in 2001, the City Council determined that several provisions of the City's development review procedures were in need of revisions, and

WHEREAS, based upon this determination the City Council requested that the Monroe Planning Commission conduct a comprehensive review of Title 21 of the Monroe Municipal Code, and

WHEREAS, the Planning Commission conducted several public workshops on the need for amendments to Title 21 and identified additional conflicts, inconsistencies, and outdated provisions, and

WHEREAS, a draft revision of Title 21 was generated and the Planning Commission held a public hearing on April 9, 2002 in order to solicit input on the draft revision, and

WHEREAS, following deliberations on June 11, 2002, the Planning Commission forwarded a recommended revision of Title 21 to the City Council, and

WHEREAS, the City Council has considered the recommendation of the Planning Commission and has determined to adopt the revisions set forth in this ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONROE as follows:

**Section 1. Title 21 Amended.** Title 21 of the Monroe Municipal Code is amended and replaced in its entirety to read as follows:

## Title 21

### DEVELOPMENT REVIEW PROCEDURES

#### Chapters:

- 21.10 Introduction.
- 21.20 Administration.
- 21.30 Consolidated application process.
- 21.40 Public notice requirements.
- 21.50 Review and approval process.
- 21.60 Appeals.
- 21.70 Enforcement.

#### Chapter 21.10

#### INTRODUCTION

#### Sections:

- 21.10.010 Intent.
- 21.10.020 Rules of interpretation.
- 21.10.030 Definitions.

21.10.010 Intent. The purpose of this title is to combine and consolidate the application, review, and approval processes for land development in the City of Monroe in a manner that is clear, concise, and understandable. It is further intended to comply with state guidelines for combining and expediting development review and integrating environmental review and land use development plans. Final decision on development proposals shall be made in a reasonable and timely manner from the date of the Letter of Completeness except as provided in section 21.50.100.

21.10.020 Rules of interpretation. For the purposes of the Development Regulations, all words used shall have their normal and customary meanings, unless specifically defined otherwise in this title.

1. Words used in the present tense include the future.
2. The plural includes the singular and vice-versa.
3. The words "will" and "shall" are mandatory.
4. The word "may" indicates that discretion is allowed.
5. The masculine gender includes the feminine and vice-versa.
6. Distances shall be measured horizontally unless otherwise specified.
7. The word "building" includes a portion of a building and a portion of the lot on which it stands.

8. Except where otherwise expressly noted, the term “days” as used in this Title 21 means calendar days, not working days.

21.10.030 Definitions. The following definitions shall apply to Title 21; other definitions may be found in individual titles:

1. Applicant: A person seeking development or permit approval from the City.
2. Boundary Line Adjustment: The adjustment of a boundary line between existing lots which results in no more lots, tracts, parcels, sites, or divisions than existed before the adjustment and which meets the criteria set forth in Chapter 17.30 of the Monroe Municipal Code.
3. City Council: The City Council of the City of Monroe.
4. City Administrator: The City Administrator of the City of Monroe, or their designee.
5. City: The City of Monroe.
6. Closed Record Appeal: An appeal to the City Council or Hearing Examiner based on the existing record.
7. Comprehensive Plan: The Monroe Comprehensive Plan adopted in 1994 as amended.
8. Comprehensive Plan Amendment: An amendment or change to the text or maps of the Comprehensive Plan.
9. Conditional Use: A use allowed in one or more zones as defined by the Zoning Code, but which because of characteristics peculiar to such use, the size, technological processes or equipment, or because of the exact location with reference to surroundings, streets, and existing improvements or demands upon public facilities, requires a special permit in order to provide a particular degree of control to make such uses consistent and compatible with other existing or permissible uses in the same zone and mitigate adverse impacts of the use.
10. Date of Issuance of Decision: In the case of decisions that may be appealed administratively, the date on which the decision is mailed to all parties of record and from which the appeal period is calculated. In the case of decisions that may be appealed only to the superior court, the date prescribed by the Land Use Petition Act, Chapter 36.70B RCW.
11. Decision: The written report of findings and conclusions issued by the hearing body and forwarded to all parties of record.
12. Developer: Any person who proposes an action or seeks a permit regulated by Titles 15, 17, 18, 19, and 20 Monroe Municipal Code, inclusive.
13. Development: Any land use permit or action regulated by Titles 15, 17, 18, 19, and 20, MMC, including but not limited to subdivision, binding site plans, rezones, conditional use permits, or variances.
14. Development Regulations: Monroe Municipal Code Titles 15, 17, 18, 19, and 20.
15. Director: The Director of Community Development or his designee.
16. Effective Date: The date a final decision becomes effective.
17. Essential Public Facilities. Facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

18. Final Decision: The final action by the Director of Community Development, Planning Commission, Hearing Examiner, or City Council.
19. Party of Record: Any person who has testified at a hearing or has submitted a written statement related to a development action and who provides the City with a complete address.
20. Party to an appeal: The appellant(s), applicant, and City of Monroe.
21. Planned Action: A significant development proposal as defined in RCW 43.21C.031 as amended
22. Planned Residential Development: A flexible method of land development, which accomplishes the purposes of Chapter 18.84 MMC, in which the principal use is residential.
23. Plat: A scale drawing of a subdivision showing lots, blocks, streets, or tracts, or other division or dedications of land to be subdivided.
24. Plat, Final: A precise drawing of a subdivision and dedications which conforms to the approved preliminary plat, meets all the conditions of approval, and meets the requirements of the Snohomish County Auditor for Recording.
25. Plat, Final Short: A precise drawing of a short subdivision and dedications which conforms to the approved preliminary short plat, meets all conditions of approval, and meets the requirements of the Snohomish county Auditor for Recording.
26. Plat, Preliminary: A neat and approximate scale drawing of a proposed subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks, and other information needed to properly review the proposal.
27. Plat, Preliminary Short: A neat and approximate scale drawing of a proposed short subdivision, showing the existing conditions and the proposed layout of streets, lots, blocks, encumbrances, encroachments, and other information needed to properly review the proposal.
28. Plat, Short: The plat of a short subdivision.
29. Project: A proposal for development.
30. Public Hearing: An open record hearing at which evidence is presented and testimony is taken.
31. Rezone: An amendment, which changes the use classifications and/or boundaries upon the Official Zoning Map.
32. Site Plan: A scale drawing which shows the areas and locations of all buildings, streets, roads, improvements, easements, utilities, open spaces, and other principal development features for a specific parcel of property.
33. Site Plan, Binding: A site plan reviewed and approved pursuant to Title 18 and Chapter 18.82 MMC, containing the inscriptions or attachments setting forth the limitations and conditions of use for a specific parcel of property and meeting the requirements of the Snohomish County Auditor for recording.
34. Subdivision, Short: A division of land into four or fewer lots or tracts.
35. Subdivision: A division of land into five or more lots, tracts, or other subdivisions. Subdivision includes re-subdivisions of previously subdivided land.
36. Subdivision Code: Title 17, Monroe Municipal Code.
37. Variance: A permissible modification of the application of Title 18, MMC, to a particular property, subject to the approval of the Hearing Examiner.
38. Working day: Any day, which the City of Monroe is open for business.

39. Zoning Code: Title 18, Monroe Municipal Code.

## **Chapter 21.20**

### **ADMINISTRATION**

#### **Sections:**

- 21.20.010 Roles and responsibilities.
- 21.20.020 Director of community development.
- 21.20.030 City council.
- 21.20.040 Planning commission.
- 21.20.040 Hearing examiner.

21.20.010 Roles and Responsibilities. The regulation of land development is a cooperative activity including many different elected and appointed boards and City staff. The specific responsibilities of these bodies are set forth below.

A developer is expected to read and understand the City Development Regulations and be prepared to fulfill the obligations placed on the developer by Titles 17 through 21, MMC.

#### **21.20.020 Director of Community Development.**

1. Authority. The Director of Community Development is responsible for the administration of Titles 17, 18, 19, 20, and 21 of the Monroe Municipal Code.
2. Administrative Interpretation. Upon request or as determined necessary, the Director of Community Development shall interpret the meaning or application of the provisions of said titles and issues a written administrative interpretation within 30 days. Requests for interpretation shall be written and shall concisely identify the issue and desired interpretation.
3. Administrative Approvals. The Director of Community Development is responsible for Administrative approvals set forth in section 21.50.010 and 21.50.020.

21.20.030 City Council. In addition to its legislative responsibility, the City Council shall review and act on the following subjects:

1. Recommendations of the Planning Commission.
2. Hearing Examiner recommendations to City Council.
3. Appeal of Hearing Examiner decisions on variances, conditional uses, administrative interpretations, and administrative approvals.
4. Appeal of Hearing Examiner decisions on the adequacy of environmental impact statements.

21.20.040 Planning Commission. The Planning Commission shall review and make recommendations on the following applications and subjects:

1. Amendments to the Comprehensive Plan
2. Amendments to the Subdivision Code, Zoning Code, and Environmental Code (Titles 17-20, MMC)
3. Other actions requested or remanded by the City Council.
4. Rezone applications.

21.20.050 Hearing Examiner. The Hearing Examiner shall review and act on the following subjects:

1. Variances from the standards and dimensional regulations of the Zoning Code, Title 18, such as height, width, size, setback, sign variance and yard restrictions.
2. Appeal of administrative interpretations and approvals, as defined by the following:
  - a. Zoning code interpretations.
  - b. Construction permit decisions.
  - c. Boundary line adjustment decisions.
  - d. Short plat applications
3. Applications for Preliminary Plats, Binding Site Plans and Planned Residential/Commercial Developments.
4. Applications for Conditional/Unclassified Uses.
5. Applications for Shoreline Substantial Development Permits.
6. Appeal of SEPA Threshold Determinations/EIS adequacy.
7. Other actions requested or remanded by the City Council.

The review criteria and procedures for the Hearing Examiner are contained in section 21.50.030.

### **Chapter 21.30**

### **CONSOLIDATED APPLICATION PROCESS**

#### **Sections:**

- 21.30.010 Application.
- 21.30.020 Preapplication meetings.
- 21.30.030 Contents of applications.
- 21.30.040 Letter of completeness.
- 21.30.050 Development review.
- 21.30.060 Environmental (SEPA) review.

#### **21.30.010 Application.**

1. The City shall consolidate development application and review in order to integrate the development permit and environmental review process, while avoiding duplication of the review processes.
2. All applications for development permits, site plan review approvals, variances, and other City approvals under the Development Regulations shall be submitted on forms provided by the Department of Community Development. All applications shall be acknowledged by the property owner(s) and any interested parties, if applicable.

#### 21.30.020 Preapplication meetings.

1. Informal. Applicants for development are encouraged to participate in an informal meeting prior to the formal preapplication meeting. The purpose of the meeting is to discuss, in general terms, the proposed development, City design standards, design alternatives, and required permits and approval process.
2. Formal. Every person proposing a development, with exception of building permits, in the City shall attend a preapplication meeting. The purpose of the meeting is to discuss the nature of the proposed development, application and permit requirements, fees, review process and schedule, applicable plans, policies and regulations. In order to expedite development review, the City shall invite all affected jurisdictions, agencies, and/or special districts to the preapplication meeting.

#### 21.30.030 Content of applications.

1. All applications for approval under Titles 15 through 20 shall include the information specified in the applicable title. The Director of Community Development may require such additional information as reasonable necessary to fully and properly evaluate the proposal.
2. The applicant shall apply for all permits identified in the preapplication meeting.

#### 21.30.040 Letter of completeness.

1. Within twenty-eight (28) days of receiving a date stamped application, the city shall review the application and, as set forth below, provide applicants with a written determination that the application is complete or incomplete.
2. A project application shall be declared complete only when it contains all of the following materials:
  - a. A fully completed, signed, and acknowledged development application and all applicable review fees.
  - b. A fully completed, signed, and acknowledged environmental checklist for projects subject to review under the State Environmental Policy Act.
  - c. The information specified for the desired project in the appropriate chapters of the Monroe Municipal Code and as identified in section 21.30.030.
3. For applications determined to be incomplete, the City shall identify, in writing, the specific requirements or information necessary to constitute a complete application. If the requested additional information is not submitted within 30 days of determining the application is incomplete, the application file shall be closed. Upon submittal of the additional information, the City shall, within fourteen (14) days, issue a letter of

completeness or identify what additional information is required.

4. If the City does not provide the determination required by this section within 28 days, the application shall be deemed complete for purposes of further processing, but that shall not preclude the City from requesting any additional information required for the application to be actually complete under the City's codes, nor shall it preclude the City from requesting additional information or studies as authorized by RCW 36.70B.070.

21.30.050 Development review committee.

1. Immediately following the issuance of a letter of completeness, the city shall schedule a meeting of the Development Review Committee (DRC) composed of city department heads. In addition, the DRC may include representatives of all affected city departments, utility districts, the fire district, and any other entities or agencies with jurisdiction.

2. The DRC shall review the development application for compliance with city plans and regulations, coordinate necessary permit reviews, and identify the development's environmental impacts.

21.30.060 Environmental review.

1. Developments and planned actions subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed in accordance with the policies and procedures contained in chapter 20.04, MMC.

2. SEPA review shall be conducted concurrently with development project review. The following are exempt from concurrent review:

a. Projects categorically exempt from SEPA.

b. Components of previously completed planned actions, to the extent permitted by law and consistent with the EIS for the planned actions.

**Chapter 21.40**

**PUBLIC NOTICE REQUIREMENTS**

Sections:

21.40.010 Notice of development application.

21.40.020 Notice of public hearing.

21.40.030 Notice of appeal hearing.

21.40.040 Notice of decision.

21.40.010 Notice of development application.

1. Within fourteen (14) days of issuing a letter of completeness under chapter 21.30.040, the City shall issue a Notice of Development Application. The notice shall include, but not be limited to, the following:
  - a. The name of the applicant.
  - b. Date of application.
  - c. The date of the letter of completeness.
  - d. The location of the project.
  - e. A project description.
  - f. A list of the permits included in the application, a list of any required studies, and to the extent known by the City, a list of other permits needed for the project but not included in the application.
  - g. A public comment period neither less than fourteen (14) nor more than thirty (30) days.
  - h. Identification of existing environmental documents and the location at which the application and any studies done in connection with the application may be reviewed.
  - i. A city staff contact and phone number.
  - j. The date, time, and place of a public hearing (if one has been scheduled).
  - k. A statement that the decision on the application will be made within 120 days of the date of the letter of completeness.
2. The Notice of Development Application shall be posted on the subject property and published once in a newspaper of general circulation.
3. The Notice of Development Application shall be issued prior to and is not a substitute for required notice of a public hearing.
4. A Notice of Application is not required for the following actions, when they are categorically exempt from SEPA or environmental review has been completed:
  - a. Application for building permits.
  - b. Application for lot line adjustments.
  - c. Application for administrative approvals.

21.40.020 Notice of public hearing. Notice of a public hearing for all development applications and all open record appeals shall be given as follows:

1. Time of Notices. Except as otherwise required, public notification of meetings, hearings, and pending actions under Titles 17 through 20, MMC, shall be made by:
  - a. Publication at least fifteen (15) days before the date of a public meeting, hearing, or pending action in the official newspaper if one has been designed or a newspaper of general circulation in the City; and
  - b. Mailing at least fifteen (15) days before the date of a public meeting, hearing, or pending action to all property owners as shown on the records of the County Assessor and to all street addresses of properties within 500 feet, not including street rights-of-way, of the boundaries of the property which is the subject of the meeting or pending action. Mailing labels shall be provided by the applicant; and

c. Posting at least fifteen (15) days before the meeting, hearing, or pending action in three public places where ordinances are posted and at least one notice on the subject property.

d. Failure to provide all three types of notice will not necessarily prevent the hearing. It shall be at the discretion of the Hearing Examiner as to whether notice was reasonable and adequate.

2. Content of Notice. The public notice shall include a general description of the proposed project, action to be taken, a non-legal description of the property or a vicinity map or sketch, the time, date and place of the public hearing, and the place where further information may be obtained.

3. Continuations. If for any reason, a meeting or hearing on a pending action cannot be completed on the date set in the public notice, the meeting or hearing may be continued to a date certain and no further notice under this section is required.

21.40.030 Notice of appeal hearings. In addition to the posting and publication requirements of section 21.40.030, notice of appeal hearings shall be as follows:

1. For administrative approvals of lot boundary adjustments and short plats, notice shall be mailed to parties of record from the public hearing.

2. For Planning Commission recommendations on quasi-judicial actions, notice shall be mailed to parties of record from the Planning Commission public hearing.

3. For all recommendations and decisions of the Hearing Examiner, notice shall be mailed to parties of record from the Hearing Examiner public hearing.

21.40.040 Notice of decision. A written notice for all final decisions and Hearing Examiner recommendations shall be sent to the applicant and all parties of record within five (5) working days of City receipt, via United States mail, of the decision by the Hearing Examiner or other hearing body.

## **Chapter 21.50**

### **REVIEW AND APPROVAL PROCESS**

#### **Sections:**

- 21.50.010 Administrative approvals without notice.
- 21.50.020 Administrative approvals subject to notice.
- 21.50.030 Hearing examiner review and recommendation.
- 21.50.040 Planning commission review and recommendation.
- 21.50.050 City council action
- 21.50.060 Procedures for public hearings.
- 21.50.070 Procedures for closed record appeals.
- 21.50.080 Reconsideration.
- 21.50.090 Procedures
- 21.50.100 Remand
- 21.50.110 Final decision

21.50.010 Administrative approvals without notice.

1. The Director of Community Development may approve, approve with conditions, or deny the following without notice:
  - a. Extension of time for approval.
  - b. Minor amendments or modifications to approved developments or permits. Minor amendments are those which may affect the precise dimensions or location of buildings, accessory structures and driveways, but do not affect: (i) overall project character, (ii) increase the number of lots, dwelling units, or density or (iii) decrease the quality or amount of open space.
  - c. Adjustment to yard requirements per section 18.94.030, MMC.
2. Decisions of the Director of Community Development under this section shall be final on the date issued.

21.50.020 Administrative approvals subject to notice.

1. The Director of Community Development may grant preliminary approval or approval with conditions, or may deny the following actions subject to the notice and appeal requirements of this section:
  - a. Boundary line adjustments.
  - b. Short Plats.
2. Preliminary approvals under this section shall become final subject to the following:
  - a. If no appeal is submitted, the preliminary approval becomes final at the expiration of the 15 working day appeal period.
  - b. If a written notice of appeal is received within the specified time period, the matter will be referred to the appropriate appeal hearing body.

21.50.030 Hearing examiner review and recommendation.

1. Staff Report. The Director of Community Development shall prepare a staff report on the proposed development or action summarizing the comments and recommendations of City departments, affected agencies, and special districts, and evaluating the development's consistency with the City's Development Regulations, adopted plans and regulations. The staff report shall include findings, conclusions, and proposed recommendations for disposition of the development application. The staff report should be forwarded to the Hearing Examiner and made available for public review at least one week prior to the public hearing by the Hearing Examiner.
2. Hearing. The Hearing Examiner shall conduct a public hearing on development proposals for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the City's Development Regulations, adopted plans and regulations. Notice of the Hearing Examiner hearing shall be in accordance with Section 21.40.030.
3. Required Findings. In drafting a recommendation, the Hearing Examiner shall address the following, as required in the findings of fact:

- a. The development is consistent with the Comprehensive Plan and meets the requirements and intent of the Monroe Municipal Code.
- b. The development makes adequate provisions, if appropriate, for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds.
- c. The development adequately mitigates impacts identified under chapters 17.12, 18.84, and 20.04, MMC, and the Sensitive Area Guidelines adopted by resolution.
- d. The development is beneficial to the public health, safety and welfare and is in the public interest.
- e. The development does not lower the level of service on the following public facilities and services below the minimum standards established within the Comprehensive Plan:
  1. potable water;
  2. wastewater;
  3. stormwater drainage;
  4. police and fire protection;
  5. parks and recreation;
  6. arterial roadways; and
  7. public schools.

If the development results in a level of service lower than those set forth in the Comprehensive Plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, subject to the requirements of chapter 20.06, MMC.

- f. The area, location, and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of development, and are proportional to the impacts created by the development.
4. Recommendation. The Hearing Examiner shall provide the original of the recommendation to the Community Development Department. The Department shall be responsible for distribution of the document and for scheduling City Council action. The Hearing Examiner's recommendation shall be forwarded to the City Council. The Hearing Examiner's recommendation on preliminary plats shall be forwarded to the City Council within fourteen days following the Hearing Examiner's issuance of the recommendation.

The responsibilities of the Hearing Examiner are contained in section 21.20.050.

21.50.040 Planning commission review and recommendation.

1. Staff Report. The Director of Community Development shall prepare a staff report on the proposed action summarizing the comments and recommendations of City departments, affected agencies, and special districts, and evaluating the development's consistency with the City's Development Regulations, adopted plans and regulations. The staff report shall include proposed findings, conclusions, and proposed recommendations for disposition of the proposed action.

2. Hearing. The Planning Commission shall conduct a public hearing on proposed amendments to the Comprehensive Plan and/or development regulations for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the City's Development Regulations, adopted plans and regulations. Notice of the Planning Commission hearing shall be in accordance with section. 21.40.030.

3. Required findings. The Planning Commission shall not recommend approval of a proposed Comprehensive Plan or development regulation amendment unless the following findings and conclusions are made:

- a. The proposal is consistent with the Comprehensive Plan and meets the requirements and intent of the Monroe Municipal Code.
- b. The proposal is beneficial to the public health, safety and welfare and is in the public interest.

4. Recommendation. The Planning Commission shall provide the original of the recommendation to the Community Development Department. The Department shall be responsible for distribution of the document and the scheduling of City Council action.

The responsibilities of the Planning Commission are contained in section 21.20.040.

#### 21.50.050 City council actions.

1. Actions. Upon receiving a recommendation from the Planning Commission or Hearing Examiner, the Council shall:

- a. Hold a closed record proceeding only in the case of a Hearing Examiner recommendation. The Council shall set the date for consideration of the Hearing Examiner's recommendation at the Council's next available public meeting following receipt of the recommendation.
- b. At the Council's discretion, hold an open record hearing in the case of a Planning Commission recommendation.
- c. Take final action on the Hearing Examiner or Planning Commission's recommendation.

2. Decisions. The City Council shall make its decision by motion, resolution, or ordinance as appropriate..

a. A Council decision on a Planning Commission or a Hearing Examiner recommendation shall include one of the following actions:

1. Approve as recommended.
2. Approve with conditions. All new or modified conditions imposed by the Council on a recommendation by the Hearing Examiner must be based on the record developed at the public hearing.
3. Modify, with or without the applicant concurrence, provided that the modifications do not:
  - (a) Enlarge the area or scope of the project.
  - (b) Increase the density or proposed building size.
  - (c) Significantly increase adverse environmental impacts as determined by the responsible official.

4. Deny (reapplication or resubmittal is permitted).
  5. Deny with prejudice (reapplication or resubmittal is not allowed for one year).
  6. Remand for clarification of the evidence or findings, provided, that in any matter that is before the Council on a closed record, no new evidence shall be admitted in any remanded proceeding.
- b. A Council decision following a closed record appeal hearing shall include one of the following actions:
1. Grant the appeal in whole or in part.
  2. Deny the appeal in whole or in part.

21.50.060 Procedures for public hearing. Public hearings shall be conducted in accordance with the hearing body's rules of procedure and shall serve to create or supplement an evidentiary record upon which the body will base its decision. The Chair / Hearing Examiner shall open the public hearing and, in general, observe the following sequence of events:

1. Staff presentation, including submittal of any administrative reports. Members of the hearing body may ask questions of the staff.
2. Applicant presentation, including submittal of any materials. Members of the hearing body may ask questions of the applicant.
3. Testimony or comments by the public germane to the matter. Questions directed to the staff or the applicant shall be posed by the Chair at its discretion. The Chair/Hearing Examiner shall have discretion as to what constitutes germane testimony.
4. Rebuttal, response, or clarifying statements by the staff and the applicant.
5. The evidentiary portion of the public hearing shall be closed thereafter and the hearing body shall deliberate on the matter before it.

21.50.070 Procedures for closed record appeals. Closed record appeals shall be conducted in accordance with the hearing body's rules of procedure and shall serve to provide argument and guidance for the body's decision. Except as provided in Section 21.50.080, no new evidence or testimony shall be given or received.

21.50.080 Reconsideration. A party to a public hearing or closed record appeal may seek reconsideration only of a recommendation or a decision by the Hearing Examiner or hearing body by filing a written request for reconsideration with the Community Development Department within ten (10) calendar days following issuance of the written final decision. All motions for reconsideration shall state specific errors of facts or law. Failure to do so will be grounds for non-consideration. The Hearing Examiner or hearing body shall consider the request, without any public comment or argument. Reconsideration will be granted only when an obvious legal error has occurred or a material factual issue has been overlooked that would change the previous decision. If a request for reconsideration is accepted, a decision or recommendation is not final until after a decision on the reconsideration request has been issued.

21.50.090 Procedures.

1. Time for Appeal: Unless a specific section of Washington State law providing for review of a decision of the Hearing Examiner requires review thereof by the Superior Court or any other body, any interested party who participated in the public hearing by

testifying or submitting written evidence, other than a petition, aggrieved by the examiner's final decision on all procedures listed under MMC 21.20.050, or any other permit for which the Hearing Examiner takes final action, may submit a notice of appeal to the Community Development department, upon a form furnished by the department, within fifteen (15) working days following issuance of the written final decision. No appeal shall be allowed from a Hearing Examiner's recommendation and only final decisions of the Hearing Examiner may be appealed. For purposes of this section, the date of issuance of the Hearing Examiner's decision shall be the date on which the Hearing Examiner's decision is mailed to all parties of record.

2. Notice to parties of record: Within five (5) working days of receipt of an appeal, the City shall mail notice to all parties of record.

3. Opportunity to provide comments: Parties of record may submit written statements in support of their positions regarding the appeal within ten (10) working days of the date of mailing of the appeal notice. The written statements will not be a part of the closed record, but will only identify the error being appealed.

4. Council review procedures: The City Council shall hold a closed record hearing. The hearing shall consider the record and appeal. No additional evidence or testimony shall be accepted by the City Council. If the Council determines that further review and consideration of existing evidence is required, it may remand the matter to the Examiner. The cost of transcription of the hearing record shall be borne by the appellant.

5. Council evaluation criteria: The consideration by the City Council shall be based solely on the record, the Hearing Examiner's decision and the appeal.

6. Findings and conclusions required: If, upon appeal of a decision of the Hearing Examiner, and after examination of the record, the Council determines that a substantial error in fact or law exists in the record, it may remand the proceeding to the Examiner for reconsideration, or request the City Attorney to prepare findings and conclusions in support of its decision on the appeal.

7. Decision documentation: In any event, the decision of the City Council shall be in writing and shall specify any modified or amended findings and conclusions other than those set forth in the report by the Hearing Examiner.

8. Council action final: The action of the Council approving, modifying or rejecting a decision of the Examiner shall be final and conclusive, unless appealed as provided by law.

21.50.100 Remand. In the event the City Council determines that the public hearing record or record on appeal is insufficient or otherwise flawed, the Council may remand the matter back to the hearing body to correct the deficiencies. The Council shall specify the items or issues to be considered and the time frame for completing the additional work. The Council may hold a public hearing on a closed record appeal only for the limited purposes identified in RCW 34.05.562(1).

#### 21.50.110 Final decision.

1. Time. The final decision on a development proposal should be made within 120 days from the date of the letter of completeness, provided, that the following time periods should be excluded from the 120 days:

- a. Any time required to process necessary amendments to the Comprehensive Plan (including the initial adoption of subarea plans), or Development Regulations.
  - b. Any time required to correct plans, perform studies, or provide additional information, provided that within 14 calendar days of receiving the requested additional information, the Director of Community Development shall determine whether the information is adequate to resume the project review.
  - c. Any time during which substantial project revisions are made or requested by an applicant, in which case the 120 days will be calculated from the time that the City determines the revised application to be complete.
  - d. Any time required for the preparation and review of an environmental impact statement.
  - e. Any time required to complete the process for the siting of an essential public facility.
  - f. Any extension of time mutually agreed upon by the City and the applicant.
  - g. Any time required to obtain any necessary variance.
  - h. Any time required for any remand to the hearing body.
  - i. Any time required for any administrative appeal of SEPA threshold determination.
  - j. Any specific amount of additional time that the City determines is necessary for the processing of a specific complete project permit application.
2. Findings. Whenever the Director of Community Development determines that one of the circumstances set forth in Subsection (1) above exists, the Director shall make written findings that additional time is necessary for the processing of the project permit application and shall specify the amount of additional time that is needed.
3. Effective Date. The final decision of the Council or hearing body shall be effective on the date stated in the decision, motion, resolution, or ordinance. The date from which appeal periods shall be calculated is the date of issuance of the decision, as defined in Section 21.10.030.

## **Chapter 21.60**

### **APPEALS**

#### **Sections:**

- 21.60.010 Appeal of administrative interpretations and approvals.
- 21.60.020 Appeal to the City Council.
- 21.60.030 Judicial appeal.
- 21.60.010 Appeal of administrative interpretations and appeals. Administrative interpretations and administrative approvals may be appealed, by applicants or parties of record, to the Hearing Examiner.
- 21.60.020 Appeal to the City Council.

1. Filing. Every appeal to the City Council shall be filed with the Director of Community Development within fifteen (15) working days after the date of the recommendation or decision of the matter being appealed.
2. Contents. The notice of appeal shall contain a concise statement identifying:
  - a. The decision being appealed.
  - b. The name and address of the appellants and their interest(s) in the matter.
  - c. The specific reasons why the appellant believes the decision to be wrong. The appellant shall bear the burden of proving the decision was wrong.
  - d. The desired outcome or changes to the decision.
  - e. The appeals fee.

21.60.030 Judicial appeal.

1. Appeals from the final decision of the City Council, Planning Commission, or Hearing Examiner, or other City board or body involving Titles 15 to 20, MMC, and for which all other appeals specifically authorized have been timely exhausted, shall be made to Snohomish County Superior Court within twenty-one (21) days of the date the decision or action became final, unless another time period is established by state law or local ordinance.
2. Notice of the appeal and any other pleadings to be filed with the court shall be served on the City as required by law.
3. The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. The appellant shall post with the City Clerk prior to the preparation of any records an advance fee deposit in the amount specified by the City Clerk. Any overage will be promptly returned to the appellant.

**Chapter 21.70**

**ENFORCEMENT**

Sections:

- 21.70.010 Enforcing official/authority.
- 21.70.020 General penalty.
- 21.70.030 Application.
- 21.70.040 Civil regulatory order.
- 21.70.050 Civil fines.
- 21.70.060 Review of approved permits.
- 21.70.070 Revocation or modification of permits and approvals.

21.70.010 Enforcing official/authority. The Director of Community Development shall be responsible for enforcing Titles 17 through 20, MMC, and may adopt administrative rules to meet that responsibility. The Director of Community Development may delegate enforcement responsibility to other city officials or staff as appropriate

21.70.020 General penalty. Compliance with the requirements of Titles 17 through 20, MMC, shall be mandatory. The general penalties and remedies established in the Monroe Municipal Code for such violations shall apply to any violation of those titles. The enforcement actions authorized under this chapter shall be supplemental to those general penalties and remedies.

21.70.030 Application.

1. Actions under this chapter may be taken in any order deemed necessary or desirable by the Director of Community Development to achieve the purpose of this chapter or of the Development Regulations.
2. Proof of a violation of a development permit or approval shall constitute primary factual evidence that the violation is that of the applicant and/or owner of the property upon which the violation exists. An enforcement action under this chapter shall not relieve or prevent enforcement against any other responsible person.

21.70.040 Civil regulatory order.

1. Authority. A civil regulatory order may be issued and served upon a person if any activity by or at the direction of that person is, has been, or may be taken in violation of the Development Regulations.
2. Notice. A civil regulatory order shall be deemed served and shall be effective when posted at the location of the violation and/or delivered to any suitable person at the location and/or delivered by mail or otherwise to the owner or other person having responsibility for the location.
3. Content. A civil regulatory order shall set forth:
  - a. The name and address of the person to whom it is directed.
  - b. The location and specific description of the violation.
  - c. A notice that the order is effective immediately upon posting at the site and/or receipt by the person to whom it is directed.
  - d. An order that the violation immediately cease, or that the potential violation be avoided.
  - e. An order that the person stop work until correction and/or remediation of the violation as specified in the order.
  - f. A specific description of the actions required to correct, remedy, or avoid the violation, including a time limit to complete such actions.
  - g. A notice that failure to comply with the regulatory order may result in further enforcement actions, including civil fines and criminal penalties.
4. Remedial Action. The Director of Community Development may require any action reasonably calculated to correct or avoid the violation, including but not limited to replacement, repair, supplementation, revegetation, or restoration.

5. Appeal. A civil regulatory order may be appealed in accordance with the provision of the MMC.

21.70.050 Civil fines.

1. Authority. A person who violates any provision of the Development Regulations, or who fails to obtain any necessary permit, or who fails to comply with a civil regulatory order shall be subject to a civil fine.
2. Amount. The civil fine assessed shall not exceed one thousand dollars (\$1,000.00) for each violation. Each separate day, event, action, or occurrence shall constitute a separate violation.
3. Notice. A civil fine shall be imposed by a written notice, and shall be effective when served or posted as set forth in 21.70.030 (2). The notice shall describe the date, nature, location, and act(s) comprising the violation, the amount of the fine, and the authority under which the fine has been issued.
4. Collection. Civil fines shall be immediately due and payable upon issuance and receipt of the notice. The Director of Community Development may issue a regulatory order stopping work until such fine is paid. If remission or appeal of the fine is sought, the fine shall be due and payable upon issuance of a final decision. If a fine remains unpaid 30 days after it becomes due and payable, the Director of Community Development may take actions necessary to recover the fine. Civil fines shall be paid into the City's general fund.
5. Application for Remission. Any person incurring a civil fine may, within ten days of receipt of the notice, apply in writing to the Director of Community Development for remission of the fine. The Director shall issue a decision on the application within ten days. A fine may be remitted only upon demonstration of extraordinary circumstances.
6. Appeal. A civil fine may be appealed to the City Council as set forth in chapter 21.60.030.

21.70.060 Review of approved permits.

1. Review. Any approval or permit issued under the authority of the Development Regulations may be reviewed for compliance with the requirements of the Development Regulations, or to determine if the action is creating a nuisance or hazard, has been abandoned, or the approval or permit was obtained by fraud or deception.
2. Initiation of Review. The review of an approval or permit may be initiated by the Director of Community Development, City Administrator, City Council or by petition to the Director of Community Development by three property owners or three residents of separate dwelling units in the City, stating their belief as to the noncompliance, nuisance or hazard of the permitted activity.
3. Director's Investigation. Upon receipt of information indicating the need for, or upon receiving a request for review of permit or approval, the Director of Community Development shall investigate the matter and take one or more of the following actions:
  - a. Notify the property owner or permit holder of the investigation; and/or
  - b. Issue a civil regulatory order and/or civil fine and/or recommend revocation or modification of the permit or approval; and/or
  - c. Refer the matter to the City Attorney; and/or

d. Refer the matter to the City Council with a recommendation for action.

21.70.070 Revocation or modification of permits and approvals.

1. Upon receiving a recommendation from the Director of Community Development for revocation or modification of a permit or approval, the City Council shall review the matter at a public hearing. Upon a finding that the activity does not comply with the conditions of approval or the provisions of the Development Regulations, or creates a nuisance or hazard, the City Council may delete, modify, or impose such conditions on the permit or approval it deems sufficient to remedy the deficiencies. If the Council finds no reasonable conditions that would remedy the deficiencies, the permit or approval shall be revoked and the activity allowed by the permit or approval shall cease.

2. Reapplication. If a permit or approval is revoked for fraud or deception, no similar application shall be accepted for a period of one year from the date of final action and appeal, if any. If a permit or approval is revoked for any other reason, another application may be submitted subject to all of the requirements of the Development Regulations.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance shall be in full force and effect five (5) days from and after its publication, as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, Washington, at a regular meeting thereof held this 8th day of January, 2003.

1st Reading: 01/08/03  
Published: 01/15/03  
Effective: 01/20/03

CITY OF MONROE, WASHINGTON

\_\_\_\_\_  
Donnetta Walser, Mayor

ATTEST:

\_\_\_\_\_  
Betty King, City Clerk

APPROVED AS TO FORM:

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Donald Lyderson, City Attorney