

ORDINANCE NO. 003/2008

AN ORDINANCE OF THE CITY OF MONROE, WASHINGTON, AMENDING THE MONROE MUNICIPAL CODE IN ORDER TO CLARIFY AND REVISE CONFLICTING, INCONSISTENT AND OUTDATED PROVISIONS OF THE CITY'S ADMINISTRATIVE PROCEDURES FOUND IN TITLES 2, 15, 17, 18, AND 21; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Monroe has found certain inconsistencies in the Monroe Municipal Code, and

WHEREAS, on October 26, 2007, the regulations were submitted to the Washington State Department of Community, Trade and Economic Development and other state agencies for review; and

WHEREAS, on November 26, 2007 the Monroe Planning Commission held a duly advertised public hearing on the administrative regulations and made a final recommendation to the City Council; and

WHEREAS, the City Council has determined to adopt certain housekeeping amendments to the Monroe Municipal Code to correct the inconsistencies and,

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

Addition of Chapter 2.34 Hearing Examiner is hereby amended as attached as Exhibit A.

Changes to sections 15.01.090 Enforcement, 15.01.100 Exceptions, 15.02.080 Enforcement, 15.04.150 Approval of application and appeals, and 15.08.050 Variance are hereby amended as attached as Exhibit B.

Changes to sections 17.30.080 Appeal of the boundary line adjustment and 17.32.080 Decision – Effective date are hereby amended as attached as Exhibit C.

Changes and additions to chapters 18.05 Hearing Examiner, 18.96 Outline of Procedures for Conditional Use Permits, sections 18.75.040 Notice requirements, review process and appeal procedure for temporary tent encampment applications, 18.90.040 Certificate of zoning compliance – Denial – Appeal, 18.98.075 Reapplication and 18.98.077 Transfer of ownership, are hereby amended as attached as Exhibit D.

Changes and additions to subsections 20.04.190 Purpose of this section and adoption by reference, 20.04.200 Substantive authority, 20.04.210 SEPA administrative appeals, 20.07.190 Appeals of decisions – Procedure, and 20.12.080 Appeals, are hereby amended as attached as Exhibit E.

Changes and additions to subsections 21.10.030 Definitions, 21.20.030 City council,, 21.20.050 Hearing examiner, 21.50.020 Administrative approvals subject to notice, 21.50.090 Procedures, 21.50.120 Development Review and Appeal Matrix, 21.50.130 Consolidation, 21.60.010 Appeal of administrative interpretations and approvals, are hereby amended as attached as Exhibit F.

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.

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

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 15th day of January, 2008.

1<sup>st</sup> Reading: 01/08/08  
2<sup>nd</sup> Reading: 01/15/08  
Published: 01/22/08  
Effective: 01/27/08

CITY OF MONROE, WASHINGTON:

---

Donnetta Walser, Mayor

ATTEST/AUTHENTICATED:

---

Betty King, City Clerk

APPROVED AS TO FORM:

---

Phil Olbrechts, City Attorney

## **EXHIBITS**

(Exhibit A)

### **Title 2 ADMINISTRATION AND PERSONNEL**

#### **Chapter 2.34 HEARING EXAMINER**

2.34.010 Hearing examiner position established – Appointment – Compensation.

The city council creates the position of hearing examiner. The mayor shall employ or contract with one or more persons to fill this position. The hearing examiner shall be compensated consistent with the general personnel and/or procurement laws of the city. (Ord. 975, 1991)

2.34.020 Powers and duties.

“Hearing examiner” means an independent hearing, advisory, and decision-making body for various land use applications, appeals of administrative determinations and interpretations, and other actions as designated in the Monroe Municipal Code to provide an efficient and effective process for integrating the public hearing and decision-making processes. The hearing examiner shall have all the powers to perform each of the duties specified in this code.

2.34.030 Hearing examiner independence.

The hearing examiner shall be free of any supervision or other influence from the city administrator or any other official or employee of the city with respect to any decision or recommendation made by the hearing examiner on a specific case, issue or permit. Nothing in this code may be construed to prohibit the city administrator or any official or employee of the city from appearing before or submitting written information to the hearing examiner in the normal process of conducting public hearings for the city. (Ord. 975, 1991)

2.34.040 Hearing examiner procedures.

The hearing examiner shall follow procedures established by the city council and otherwise imposed by law. The hearing examiner may also establish rules of procedure consistent with procedures established by the city council and otherwise imposed by law for the orderly and fair conduct of matters before the hearing examiner. (Ord. 975, 1991)

(Exhibit B)

#### **Chapter 15.01 STORM WATER MANAGEMENT**

##### **15.01.090 Enforcement.**

C. Civil Penalty. A person who fails to comply with the requirements of this chapter, who fails to conform to the terms of an approval or order issued, who undertakes new development without

first obtaining city approval, or who fails to comply with a stop work order issued under these regulations shall be subject to a civil penalty.

4. Application for Remission or Mitigation. Any person incurring a penalty may apply in writing within fifteen days of receipt of the penalty to the city for remission or mitigation of such penalty. Upon receipt of the application, the hearing examiner may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty. The decision may be appealed to the city council per MMC 21.60.

5. Appeal of Civil Penalty. Persons incurring a penalty imposed by the director may appeal the penalty, in writing, to the hearing examiner. The hearing examiner's decision may be appealed to the city council per MMC 21.60. .

#### **15.01.100 Exceptions.**

E. Right of Appeal. All actions of the hearing examiner shall be final and conclusive, unless the original applicant or an adverse party, appeals the hearing examiner's decision to the city council per MMC 21.60.. (Ord. 1032, 1994)

### **Chapter 15.02 STORM WATER MAINTENANCE**

#### **15.02.080 Enforcement.**

C. Civil Penalty. A person who fails to comply with the requirements of this chapter or who fails to conform to the terms of an approval or order issued shall be subject to a civil penalty.

4. Application for Remission or Mitigation. Any person incurring a penalty may apply in writing within fifteen days of receipt of the penalty to the city for remission or mitigation of such penalty. Upon receipt of the application, the hearing examiner may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty. The decision may be appealed to the city council per MMC 21.60. .

5. Appeal of Civil Penalty. Persons incurring a penalty imposed by the director may appeal the penalty, in writing, to the hearing examiner, per MMC 21.60. The hearing examiner's decision may be appealed to the city council per MMC 21.60.

### **Chapter 15.04 BUILDING CODE**

#### **15.04.150 Approval of application and appeals.**

The building permit application shall be reviewed by the city department heads and the application shall be approved or denied by the city building official. Any appeal of the decision of the building official shall be made to the city hearing examiner per MMC 21.60. The hearing examiner shall have no authority relative to interpretation of the administrative provisions of the codes adopted in this chapter nor shall the examiner be empowered to waive requirements of such codes. (Ord. 012/2004)

### **Chapter 15.08 FENCES, WALLS AND HEDGES**

**15.08.050 Variance.**

No deviation may be made from these regulations except with the written approval of the city engineer, with the right of appeal to the hearing examiner per MMC21.60. The following criteria shall be established as grounds for variance from the regulations set forth in this chapter:

(Exhibit C)

**Title 17  
SUBDIVISIONS**

**Chapter 17.30 BOUNDARY LINE ADJUSTMENT**

**17.30.080 Appeal of the boundary line adjustment.**

The written decision of the designated official shall be final and conclusive subject to the city appeal process. Persons objecting to the boundary line adjustment decision must file an appeal in accordance with MMC 21.60. Appeals may only be made by parties of interest and any agency with jurisdiction. With the filing of such appeal, the designated official shall schedule a hearing before the city hearing examiner at the next available hearing date. (Ord. 003/2006 § 4; Ord. 022/2004; Ord. 1061, 1995; Ord. 997, 1992)

**Chapter 17.32 SHORT SUBDIVISIONS**

**17.32.080 Decision – Effective date.**

The director of community development shall issue findings of fact and conclusions in accordance with the provisions of this chapter. The preliminary approval becomes effective at the expiration of the appeal period for a period of two years. (Ord. 009/2007 § 2)

(Exhibit D)

**Chapter 18.05 HEARING EXAMINER IS REPEALED IN ITS ENTIRETY**

**Chapter 18.75 TEMPORARY TENT ENCAMPMENT**

**18.75.040 Notice requirements, review process and appeal procedure for temporary tent encampment applications.**

B. Review Process, Notice of Decision Regarding Issuance of Permit, and Appeal Procedure. After review of the application for a temporary tent encampment and an open record hearing pursuant to MMC 21.50.030(B), the hearing examiner shall make a decision regarding the issuance of a temporary tent encampment permit. Before any temporary tent encampment permit may be granted, it shall be shown that:

If issued, the permit for the temporary tent encampment shall be issued jointly to the sponsor and managing agency. A notice of such decision stating whether the permit is granted or denied,

along with information regarding the procedure for appeal of the decision, shall be mailed as required for the notice of application within three business days after the decision.

The hearing examiner's decision will be the city's final decision. Any appeal of the city's final decision may only be made to Snohomish County Superior Court in accordance with MMC 21.60.030 and Chapter 36.70C RCW. The burden of proof on appeal shall be on appellant.

## **Chapter 18.90 CONSTRUCTION PERMIT REQUIREMENTS**

### **18.90.040 Certificate of zoning compliance – Denial – Appeal.**

The action of the zoning code administrator either granting or denying an application for certificate of zoning compliance shall be final and conclusive, unless the applicant or an adverse party files a written appeal with the Department of Community Development. Upon the filing of an appeal, the action of the zoning code administrator shall be invalid, and the hearing examiner shall hear the application for certificate of zoning compliance. The hearing examiner shall follow, in its review of the application, the standards set forth in MMC 18.82. The action of the hearing examiner either granting or denying an application by the zoning code administrator or upon written demand as set forth in this section shall be final and conclusive unless the applicant or an adverse party appeals the decision to the city council under the procedure set forth in MMC 21.60. (Ord. 022/2004; Ord. 922, 1989)

## **CHAPTER 18.96 OUTLINE OF PROCEDURES FOR CONDITIONAL USE PERMITS,**

**Section 18.96.010 Granting variances are repealed in its entirety.**

**Section 18.96.020 Variances – Conditions for granting is repealed in its entirety.**

**Section 18.96.030 Variances – Effect of hearing examiner decision is repealed in its entirety.**

**Section 18.96.072 Special use permits – Effect of hearing examiner's decisions is repealed in its entirety.**

**Section 18.96.080 Administrative appeals is repealed in its entirety.**

**Section 18.96.120 Judicial review is repealed in its entirety.**

### **18.96.130 Application form.**

The zoning code administrator may prescribe the form in which applications are made for a conditional use permit. The administrator may prepare and provide printed forms for such purpose and may prescribe the type of information to be provided in the application by the applicant. No application shall be accepted unless it complies with such requirements. (Ord. 1203, 2000, 1989)

### **18.96.140 Filing fees.**

The application for a conditional use permit shall be accompanied by a filing fee in the amount specified in the city's current fee resolution schedule adopted by city council. (Ord. 1203, 2000)

**18.96.150 Notice of hearing –Conditional use permits.**

Notice of all public hearings shall be given and prepared as required by MMC 21.40. (Ord. 1275, 2002; Ord. 1242, 2001)

**Section 18.96.160 Notice of hearing – Administrative appeals is repealed in its entirety.**

**18.96.165 Hearing body – Hearing examiner.**

The hearing body for conditional use permit hearings under this chapter shall be the hearing examiner. (Ord. 1203, 2000)

**18.96.170 Reapplication.**

Upon final action as set forth in this chapter in denying an application for a conditional use permit, the city shall not accept further filing of an application for substantially the same matter within one year from the date of any final denial of an application. (Ord. 1203, 2000)

**18.96.180 Transfer of ownership.**

A conditional use permit runs with the land; compliance with the conditions of any such permit is the responsibility of the current owner of the property, whether that is the applicant or a successor. No permit for which a financial security is required shall be considered valid during any time in which the required financial security is not posted. (Ord. 1203, 2000)

**18.96.190 Vacation of permit.**

A. Any conditional use permit issued pursuant to this chapter may be vacated upon approval by the current landowner; provided, that:

1. The use authorized by the permit does not exist and is not actively being pursued; or
2. The use has been terminated and no violation of terms and conditions of the permit exist.

B. Requests to vacate a permit shall be made in writing to the zoning code administrator who shall determine if the above conditions are present prior to authorizing the vacation. Vacation of any permit shall be documented by the filing of a notice of land use permit vacation on a form provided by the zoning code administrator with the city. (Ord. 1203, 2000; Ord. 922, 1989)

**Chapter 18.98 VARIANCE PERMITS**

**18.98.075 Reapplication.**

Upon final action, as set forth in this chapter, in denying an application for a variance, the city shall not accept further filing of an application for substantially the same matter within one year from the date of any final denial of an application.

**18.98.077 Transfer of ownership.**

A variance runs with the land; compliance with the conditions of any such variance is the responsibility of the current owner of the property, whether the applicant or a successor.

(Exhibit E)

**Title 20  
ENVIRONMENT**

**Chapter 20.04 STATE ENVIRONMENTAL POLICY ACT**

**20.04.190 Purpose of this section and adoption by reference.**

This section contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This section also contains procedures for appealing SEPA determinations to agencies or the courts. The city adopts the following sections by reference:

WAC

197-11-650 Purpose of this part.

197-11-655 Implementation.

197-11-660 Substantive authority and mitigation.

197-11-680 Appeals.

Administrative appeals under RCW 43.21C.075 and WAC 197-11-680 shall be governed by MMC 21.60. (Ord. 022/2004; Ord. 975, 1991; Ord. 773, 1984)

**20.04.200 Substantive authority.**

E. When any proposal or action is conditioned or denied based on SEPA, by a nonelected official, the decision shall be appealable to the city council as required by RCW 43.21C.060, as now or hereafter amended, except the permits and variances issued pursuant to Title 19 MMC (Ord. 1182, 1999; Ord. 1020, 1993; Ord. 773, 1984).

**20.04.210 SEPA administrative appeals.**

The city establishes the following SEPA administrative appeal procedure under RCW 43.21C.075 and WAC 197-11-680:

A. Threshold Determinations.

1. Any agency or person may appeal a determination of significance (DS), a mitigated determination of nonsignificance (MDNS), or a determination of nonsignificance (DNS) by filing an appeal, in conformance with MMC 21.60, prior to the lapse of any comment period of a threshold determination under WAC 197-11-340(2).

a. The appeal shall be filed on forms provided by the SEPA administrator and must be filed in original form.

b. The appeal shall set forth the specific reason, rationale, and/or basis for the appeal.

c. Payment of the appeal fee, as specified in the city's fee resolution, shall occur at the time the appeal is filed.

2. If the appeal has been timely filed and complies with the requirements of subsection (A)(1) of this section, the hearing examiner shall conduct a public hearing into the merits of the appeal. The hearing examiner shall hear and receive testimony, documentary evidence, and arguments from the appellant(s) solely on the issues raised or identified by the appeal. Appeals of threshold determination shall be consolidated in all cases with any public hearing on the merits of the proposal held by the hearing examiner, except for appeals of a DS, which shall be heard separately from the underlying project proposal.

- a. The person(s) filing the appeal shall have the burden of going forward with the evidence and the ultimate burden of persuasion.
- b. Notice of any public hearing held pursuant to this section shall be provided as specified in this code, or the rules of the hearing examiner.
- c. The hearing examiner may continue the hearing from time to time without further mailed or delivered notice.
- d. The city shall maintain an electronic record of the testimony and arguments presented and a record of any physical evidence/documents presented.
- e. The hearing examiner's decision shall be rendered within ten working days of the conclusion of an appeal hearing unless a longer period is agreed to in writing, or orally on the record, by the appellant.
- f. The hearing examiner's decision shall include findings of fact and conclusions in support of the decision.
- g. The hearing examiner's decision under this section may be to grant or deny the appeal in whole or in part, or remand the threshold determination to the responsible official for reconsideration.
- h. The hearing examiner's decision shall become final at the expiration of the appeal period, from the date of issuance.

3. The decision of the hearing examiner shall be final and may not be appealed to the city council, as required by WAC 197-11-680(3)(iv), as now or hereafter amended.

#### B. Adequacy of Environmental Impact Statements.

1. Any agency or person may appeal the adequacy of a final environmental impact statement (FEIS) by filing an appeal in conformance with MMC 21.60.

- a. The appeal shall be filed on forms provided by the SEPA administrator and must be filed in original form.
- b. The appeal shall set forth the specific reason, rationale, and/or basis for the appeal.

c. Payment of the appeal fee, as specified in the city's fee resolution, shall occur at the time the appeal is filed.

2. If the appeal has been timely filed and complies with requirements of subsection (B)(1) of this section, the hearing examiner shall conduct a public hearing into the merits of the appeal. The hearing examiner shall hear and receive testimony, documentary evidence, and arguments from the appellant(s) solely on the issues raised or identified by the appeal. Appeals relating to the adequacy of an FEIS shall be consolidated in all cases with any public hearing on the merits of the proposal held by the hearing examiner.

3. The decision of the hearing examiner shall be final and may not be appealed to the city council, as required by WAC 197-11-680(3)(iv), as now or hereafter amended.

C. Substantial Weight Accorded Responsible Official. The procedural determinations by the city's responsible official shall carry substantial weight in any appeal proceeding under this code.

D. Record. For any appeal under this subsection, the city shall provide for a record that shall consist of the following:

1. Findings and conclusions;
2. Testimony under oath; and
3. A taped or written transcript, the cost of which shall be borne by the appellant.

E. Exhaustion of Remedies. SEPA appeal procedures, as provided herein, must be utilized prior to judicial review of that SEPA decision. (Ord. 1203, 2000; Ord. 975, 1991)

## **Chapter 20.07 SCHOOL IMPACT MITIGATION FEE PROGRAM**

### **20.07.190 Appeals of decisions – Procedure.**

A. Any person aggrieved by a decision applying an impact fee under this title to a development activity may appeal such decision to the hearing examiner pursuant to provisions of MMC 21.60.010. Appeals of this title must be combined with the administrative appeal for the underlying development approval. The impact fee amount specified in a building permit issuance shall be construed as subject to appeal under this section and a separate appeal must be filed for each and every permit issuance after each permit has been issued. The community development director or his/her designee may consolidate appeal hearings; provided, that no appeal hearing shall be scheduled more than ninety days after its impact fee decision unless agreed to by the person/entity that owes the fee. Only one appeal fee shall be required for consolidated appeals. All appeals filed under this section must be filed within the specified appeal period of the final decision applying an impact fee to a development activity, or a decision on an adjustment request to that decision, whichever comes later.

C. The decision of the hearing examiner pursuant to this subsection shall be final and conclusive with an optional right of reconsideration as provided in MMC 21.50.080 unless appealed to the city council in accordance with MMC 21.60 (Ord. 033/2004; Ord. 022/2004; Ord. 1205, 2000)

## **Chapter 20.12 TRANSPORTATION IMPACT FEES**

### **20.12.080 Appeals.**

D. Determinations of the city engineer pursuant to subsection (C) of this section may be appealed by the applicant to the hearing examiner. All appeals of a city engineer determination shall proceed as follows:

5. The decision of the hearing examiner shall be final unless appealed to the city council in accordance with MMC 21.60. (Ord. 017/2007 § 2)

(Exhibit F)

## **Title 21 DEVELOPMENT REVIEW PROCEDURES**

### **21.10.030 Definitions.**

The following definitions shall apply to this title; other definitions may be found in individual chapters:

"Closed record appeal" means an appeal to the city council or hearing examiner, following an open record hearing on a project permit application, when the appeal is based on the existing record with no or limited new evidence or information allowed to be submitted and only appeal arguments are allowed.

"Open record hearing" means a hearing, conducted by a single hearing body that creates the record through testimony and submission of evidence and information, under procedures prescribed by the hearing body. An open record hearing may be held prior to a decision being issued on a project permit to be known as an "open record pre-decision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record pre-decision hearing has been held on the project permit.

"Project permit" or "project permit application" means any land use or environmental permit or license required by the City of Monroe for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required for a critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations.

## **CHAPTER 21.20 ADMINISTRATION**

### **21.20.030 City council.**

In addition to its legislative responsibility, the city council shall review and act on the following subjects:

A. Recommendations of the planning commission.

B. Hearing examiner recommendations to city council.

C. Appeal of hearing examiner decisions on variances, conditional uses, administrative interpretations, administrative approvals, and other actions and responsibilities as defined in this code.

D. Appeal of hearing examiner decisions on the adequacy of environmental impact statements, threshold determinations, and decisions based on SEPA substantive authority, in conformance with MMC 20.04. (Ord. 001/2003; Ord. 1227, 2001; Ord. 1092, 1996)

### **21.20.050 Hearing examiner.**

The hearing examiner shall have the authority and responsibility to review and act on the following subjects:

A. To hear and decide all variance applications, per MMC 18.98, including land-clearing variances, per MMC 20.08.

B. To hear and decide all variance applications from the flood hazard area regulations, per MMC14.01 .

C. To hear and decide all applications for "Reasonable use" exceptions from critical areas regulations, per MMC 20.05.

D. To hear all appeals of administrative interpretations and approvals, as defined by the following MMC titles 15 and 17 - 20:

1. Zoning code interpretations.
2. Construction permit decisions.
3. Boundary line adjustment decisions.
4. Short subdivision applications.
5. Exceptions from critical areas regulations.
6. Exceptions from stormwater management regulations.
7. Remit or mitigate stormwater management or maintenance penalties.
8. Flood hazard area development permits issued by the city engineer.

E. To hear and decide all normally administrative approvals for project applications by the following MMC titles 15 and 17 - 20 when a conflict of interest may exist when the applicant is a city employee, a city elected official, city appointed board member or other member of the

public that has financial ties or other relationship with the above groups for private development project review.

F. To hear and make recommendations to the city council on all applications for preliminary subdivision plats, per MMC 17.12, and planned residential/commercial developments, per MMC 18.84.

G. To hear and decide all applications for conditional use permits, per MMC 18.96.

H. To hear and review all shoreline permit applications, per MMC 19.01, as defined by the following:

1. The hearing examiner shall approve, approve with conditions, or deny the application shoreline substantial development permits;
2. The hearing examiner shall have the authority to hear and make findings, conclusions, and recommendations to the city council on shoreline conditional use permits; and
3. The hearing examiner shall have the authority to hear and make findings, conclusions, and recommendations to the city council on shoreline variances.

I. To hear all appeals of State Environmental Policy Act threshold determinations/EIS adequacy, per MMC 20.04.

J. To hear and decide all applications for temporary tent encampments, per MMC 18.75.

K. To hear and make recommendations to the city council on all special use permit applications, per MMC 18.97, including special use permits for essential public facilities, per MMC 18.15;

L. Other actions and responsibilities, including but not limited to local improvement districts and assessments therein requested or remanded by the city council by resolution, or as designated in the Monroe Municipal Code.

The review criteria and procedures for the hearing examiner are contained in MMC 21.50.030. (Ord. 003/2007 § 3; Ord. 016/2006 § 5; Ord. 004/2006 § 6; Ord. 001/2003; Ord. 1227, 2001; Ord. 1092, 1996)

## **Chapter 21.50 REVIEW AND APPROVAL PROCESS**

### **21.50.020 Administrative approvals subject to notice.**

B. Preliminary approvals under this section shall become final subject to the following:

1. If no appeal is submitted, the preliminary approval becomes final at the expiration of the appeal period.
2. If a written notice of appeal is received, within the specified time period, the matter will be referred to the hearing examiner. (Ord. 003/2006 § 13; Ord. 001/2003; Ord. 1227, 2001; Ord. 1092, 1996)

**21.50.090 Procedures.**

A. Time for Appeal. Any interested party who participated in the public hearing by testifying or submitting written evidence, other than a petition, aggrieved by the hearing 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 in accordance with MMC 21.60.020,. 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 three days after the date on which the hearing examiner's decision is mailed to all parties of record.

**21.50.120 Development Review and Appeal Matrix**

	<b>Application Type</b>	<b>Decision Body</b>	<b>Decision/Action</b>	<b>Final Decision Body</b>	<b>Appeal Body<sup>4</sup></b>	<b>Subsequent Appeal Body<sup>5</sup></b>
<b>Administrative Approvals Without Notice</b>	Adjustments to yard requirements	Director of Community Development	Final		Hearing Examiner	City Council
	Administrative Interpretations	Director of Community Development	Final		Hearing Examiner	City Council
	Boundary line adjustments	Director of Community Development	Final		Hearing Examiner	City Council
	Minor Amendments	Director of Community Development	Final		Hearing Examiner	City Council
	Minor Construction Permits	Director of Community Development	Final		Hearing Examiner	City Council
<b>Administrative Approvals Subject to Notice</b>	Accessory dwelling Units	Director of Community Development	Final		Hearing Examiner	City Council
	Major Construction Permits	Director of Community Development	Final		Hearing Examiner	City Council
	Short Subdivisions <sup>1</sup>	Director of Community Development	Final		Hearing Examiner	City Council
	Threshold Determination/ EIS Adequacy (SEPA) <sup>2</sup>	Director of Community Development	Final		Hearing Examiner	Superior Court

<b>Land Use (quasi-judicial) Approvals Subject to Public Hearing</b>	Administrative approvals when a conflict of interest exists	Hearing Examiner	Final		City Council	Superior Court
	Binding Site Plan/Contract Rezone	Planning Commission	Recommendation	City Council	Superior Court	
	Conditional Use	Hearing Examiner	Final		City Council	Superior Court
	Planned Residential Development <sup>1</sup>	Hearing Examiner	Recommendation	City Council	Superior Court	
	Reasonable Use Exception	Hearing Examiner	Final		City Council	Superior Court
	Shoreline Conditional Use <sup>3</sup>	Hearing Examiner	Recommendation	City Council	Shoreline Hearings Board	Superior Court
	Shoreline Substantial Development	Hearing Examiner	Final		City Council	Shoreline Hearings Board
	Shoreline Variance <sup>3</sup>	Hearing Examiner	Recommendation	City Council	Shoreline Hearings Board	Superior Court
	Special Use	Hearing Examiner	Recommendation	City Council	Superior Court	
	Subdivision <sup>1</sup>	Hearing Examiner	Recommendation	City Council	Superior Court	
	Temporary Tent Encampments	Hearing Examiner	Final		Superior Court	
	Variance	Hearing Examiner	Final		City Council	Superior Court
	Variance from flood hazard regulations	Hearing Examiner	Final		City Council	Superior Court
<b>Legislative Actions Subject to Public Hearing</b>	Comprehensive Plan Amendments	Planning Commission	Recommendation	City Council	Growth Hearing Board	
	Code Amendments	Planning Commission	Recommendation	City Council	Growth Hearing Board	

	Rezone Applications	Planning Commission	Recommendation	City Council	Superior Court	
--	---------------------	---------------------	----------------	--------------	----------------	--

1. Short Subdivisions, Planned Residential Developments, and Subdivisions receive approval in two phases a preliminary approval with conditions and final approval when preliminary conditions have been completed.
2. Appeals based on the substantive authority of SEPA for conditions imposed outside the threshold determination process are appealable to the city council, as required by RCW 43.21C.060. Otherwise, appeals of SEPA threshold determinations and EIS adequacy are considered procedural determinations and therefore appealable to the hearing examiner per WAC 197-11-680(3)(iv).
3. Shoreline conditional use permits and variances require final approval by the Department of Ecology per MMC 19.01.
4. Administrative appeals for hearing examiner decisions are as described for actions of Titles 15 & 17-21 of the Monroe Municipal Code. All appeals of hearing examiner decisions will be heard by the city council per MMC 21.60, unless otherwise noted in the Monroe Municipal Code. Public hearings, including land use decision and pre-decision hearings and administrative appeal hearings, held before the hearing examiner are considered open record hearing. All appeal hearings held before the city council are considered closed record appeals, per MMC 21.50.070. Alternate processes may apply for actions found in other sections of the Monroe Municipal Code.
5. When all administrative avenues are exhausted, any subsequent appeals of final decisions by the hearing examiner or city council will go directly to superior court for judicial review per MMC 21.60.030.

**21.50.130 Consolidation.**

Upon the request of an applicant, the city shall consolidate all project permit applications for a development proposal so that the review process does not involve more than one open record hearing and one closed record appeal. The appeal of a determination of significance shall not be subject to this section. If consolidation leads to conflicts as to which decision maker must hold a hearing or appeal, priority shall be given to the decision maker with the greatest authority.

**Chapter 21.60 APPEALS**

**21.60.010 Appeal of administrative interpretations and approvals.**

A. Applicants or parties of record may appeal administrative interpretations and administrative approvals to the hearing examiner, within fifteen working days of the decision, at an open record hearing. The hearing examiner shall have the authority to hear and decide appeals from any order, requirement, permit, decision or determination made by the zoning code administrator or his designee in the administration and enforcement of provisions of this code (Ord. 001/2003; Ord. 1227, 2001; Ord. 1092, 1996)

1. The appeal shall be filed on forms provided by the community development department and must be filed in original form.

2. The appeal shall set forth the specific reason, rationale, and/or basis for the appeal.
  3. Payment of the appeal fee, as specified in the city's fee resolution, shall occur at the time the appeal is filed.
- B. Except when superior court or any other body is the designated appeal body, or the Monroe Municipal Code or state law requires otherwise, appeals of the hearing examiner's appellate decisions for administrative interpretations and administrative approvals, by a party of record, are made to the city council at a closed record hearing, in accordance with 21.50.070. All appeals shall be filed in writing and shall be based on the review of the record established at the hearing before the hearing examiner in accordance with MMC 21.50.090 and 21.60.020.