

Instructions to reader: This is a new chapter in Title 15 of the Everett Municipal Code. For a summary of the effect of this chapter from current standards, please visit the Rethink Zoning Library at <https://everettwa.gov/2453/Rethink-Zoning-Library>.

Chapter 15.01 Land Use Application Requirements

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Article I. Land Use Applications

15.01.005 Introduction

The purpose of this chapter, in conjunction with EMC 15.02 and 15.03, is to implement requirements in Chapter 36.70B RCW, Local Project Review. Together, these three chapters are collectively referred to as the “Local Project Review Procedures.” Included within this chapter are land use application requirements, including how an application is determined complete and the time limits for permits and permit processing. For application procedures, please see EMC 15.02. For land use decision criteria, please see EMC 15.03.

15.01.010 Preapplication review

- A. The purpose of preapplication review is to acquaint city staff with a sufficient level of detail about the proposed project to enable staff to advise the applicant accordingly. The purpose is also to acquaint the applicant with the applicable requirements of this title and other applicable city regulations. Further, the preapplication review is intended to provide the applicant with preliminary direction regarding the required content of the proposed application. However, the conference is not intended to provide an exhaustive review of all the potential issues that a given application could raise. The preapplication review does not prevent the city from applying all relevant laws to the application and does not constitute an approval of the project.

- B. Preapplication review is required for Review Process II, III, and V applications, unless the ordinance or the planning director exempts the application in question or the applicant submits a completed form provided by the city requesting waiver of preapplication review, and such waiver is granted by the planning director.
- C. To initiate preapplication review, an applicant shall submit a completed request for preapplication meeting form provided by the planning department for that purpose, any required fee, preliminary site plan and all other information required by the city.
- D. The preapplication conference shall be scheduled within twenty-one (21) calendar days, and held within thirty (30) days – unless a longer period of time is agreed by the city and applicant, after the city accepts the application for preapplication review.
- E. Preapplication review does not vest an application nor does it constitute approval.

15.01.020 Land use permit application

- A. Content. Applications shall be submitted upon forms provided by the planning director. An application shall identify all city land use permits required by the applicable development regulations as they apply to the proposed land use action. Applications may be filed by a property owner or an agent acting on his/her behalf. At a minimum, applications shall include the following information:
 - 1. A completed land use permit application packet containing all required forms, information, and any special studies or information necessary to process the application indicated by the city in a preapplication meeting including, for example, where applicable to a project, traffic analysis, wetland and critical area studies, biological assessment; soil, stormwater and utility analyses.
 - 2. Environmental checklist (SEPA) or other SEPA documentation including supporting information, when required under Chapter 197-11 WAC and the SEPA ordinance (EMC 19.43).
 - 3. Complete and accurate special studies, reports, information, maps, plans, or other documentation required by the planning director to support the application and to enable the city to evaluate consistency and the environmental impacts of the proposal. When identified in the application packet, a supplemental narrative statement describing how the proposal meets the required evaluation criteria.
 - 4. A statement that the applicant is the owner of the property affected by the application or is authorized by the owner to submit the application. For land divisions, a declaration of ownership form signed by the owner is required.
 - 5. A written designation by the applicant of a single person or entity to receive determinations and notices required and issued as part of the project review process.
 - 6. A property and/or legal description of the site for all applications required by the pertinent land use permit application packet and applicable development regulations. For land divisions, a legal description of the property proposed to be adjusted.
 - 7. A complete and accurate site plan or proposed land use plans as described in the city’s land use permit application packet. For land divisions, see plat and map requirements in EMC 15.01.030 of this chapter.
 - 8. A complete and accurate mailing list, as required by the pertinent land use permit application packet and development regulations.
 - 9. Filing fee.
- B. Fees. Fees shall be submitted with applications in accordance with the current land use development permit fee ordinance adopted by the city council. An application shall not be considered complete until the required fee has been submitted.
- C. Modification or Waiver. The planning director may waive application requirements that are clearly not necessary to show an application complies with relevant regulations, review criteria and standards and may modify application requirements based on the nature of the proposed application, development site, or other factors.
- D. Supplemental Application Requirements. Additional application requirements for shoreline permits, land division applications, and planned actions are set forth later in this chapter.

15.01.022 Shoreline permit applications.

Shoreline permit applications shall meet the requirements of the Joint Aquatic Review Project Application (JARPA) forms, if applicable to the project, and the information required by the planning department for shoreline permits.

15.01.030 Land division applications

- A. Applications. All land division applications shall include the following:
1. The application materials as specified in EMC 15.01.020 of this chapter, including application forms or checklists provided by the city.
 2. A plat map, supplemental maps and/or site plan drawn to the specifications set forth in the applicable application.
 3. A survey conducted by or under the supervision of a registered licensed land surveyor in the state of Washington, in accordance with the "Survey" section of EMC 19.26.140.
 4. A certificate, not older than ninety (90) days, from a title company is required. The applicant shall be responsible for updating the title report to ensure that it is current as of the time of final land division review. This report must confirm that the title of the lands as described and shown on the land division is in the name of the owners signing the land division.
- B. Planning Director's Determination on Restrictive Covenants. For purposes of meeting the requirements of this title and RCW 58.17.215, any restrictive covenant that has not been imposed by the city shall not be subject to the requirements of the alteration and vacation review procedures of this title.
- C. Notice of Correction. The planning director may authorize corrections to the recorded final division map or other documents required by the city. It is the applicant's responsibility to provide all necessary maps or documents and pay all required fees and record the corrections as necessary. For the purpose of this title, a correction is the act of correcting an error on a map or document to bring it into conformity with the standards of this title or applicable survey standards as required by state law.
- D. Withdrawal of Preliminary or Final Approvals. Except for formal subdivisions as provided by RCW 58.17.170, if a division of land or boundary line adjustment application was procured by misrepresentation, lack of material disclosure or erroneous information, or if there was deficient public notice as a direct result of the applicant or based on erroneous information or, if in the opinion of the planning director, a substantial change in conditions of approval has occurred and construction has not commenced, the city or hearing examiner may withdraw its approval of the project and require the applicant to correct the application. If the approval is withdrawn, the city or the hearing examiner shall issue a new decision on the application consistent with the review processes and standards of this title.

15.01.035 Land division, supplemental requirements.

Supplemental requirements for certain Review Process I land divisions (minor amendments to land divisions, boundary line adjustments, and binding site plans with previously approved site plans) are as follows:

- A. Criteria for Minor Amendment. For the purposes of this title, a minor amendment shall meet the following criteria:
1. The proposal represents a minor adjustment of lot lines or lot frontage that does not increase or decrease said lot lines and/or frontage in excess of ten percent;
 2. The proposal does not result in substantial changes in the design or location of access, parking, circulation, drainage or public utility improvements;
 3. The proposal does not result in additional lots or potential number of dwelling units;
 4. The proposal would not modify or be in conflict with any of the conditions of preliminary approval;
 5. In the opinion of the planning director, the proposal would not have an adverse effect on other lots within the project or on adjacent properties; and
 6. The proposal is consistent with Titles 13, 19, 20 and other applicable city code provisions and standards.

- B. Approval of Adjacent Owners is Not Required for Minor Amendments. The approval of other property owners within the proposed project is not required on the final division map or other documents if the city approves a minor amendment.
- C. When an Amendment Does Not Qualify as a Minor Amendment. If the city determines that any proposed amendments are not minor, the project shall be processed as required for the original application meeting all the requirements of this title, including providing public notice to all property owners within the original project area.
- D. Binding Site Plans with Previously Approved Site Plans. The following supplemental information shall be submitted with an application for a binding site plans with previously approved site plan:
 - 1. The approved site plan with a copy of the corresponding decision and project numbers;
 - 2. The SEPA threshold determination and corresponding checklist submitted for the approved project; and
 - 3. A proposed or approved phasing plan.
- E. Boundary Line Adjustments. Boundary line adjustment applications shall submit a declaration of legal documentation form. Requirements for final recording of boundary line adjustments shall be specified in rules for the administration and implementation of this title.

Article II. Determination of Completeness

15.01.040 Review for technically complete status.

Before accepting an application for processing, the city shall determine that the application is technically complete. A technically complete application contains all information required under Section 15.01.020. The city shall issue a notice of completeness or notice that the application is deemed incomplete as set forth in Section 15.01.050.

15.01.050 Determination of completeness or incomplete application.

- A. Within twenty-eight (28) days after receiving a project permit application, the city shall mail (electronic mail acceptable) or personally provide a determination to the applicant which states either:
 - 1. That the application is complete; or
 - 2. That the application is incomplete and what is necessary to make the application complete.
- B. To the extent known by the city, other agencies that may have jurisdiction over the application shall be identified in the city's completeness determination.
- C. An application is complete for purposes of this section when it meets the procedural submission requirements set forth in Section 15.01.020 and is sufficient for continued processing even though additional information may be required or project modification may be undertaken subsequently. The determination of completeness shall not preclude the city from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is needed or substantial changes in the proposed action occur.

The determination of completeness may include the following as optional information:

- 1. A preliminary determination of those development regulations that will be used for project mitigation;
 - 2. A preliminary determination of consistency, with the comprehensive plan or subarea plan, and applicable development regulations; or
 - 3. Other information deemed appropriate by the planning director.
- D. An application shall be deemed complete under this section if the planning director, within twenty-eight (28) days of receiving the application, does not mail (electronic mail acceptable) or provide in person a written determination to the applicant that the application is incomplete.
 - E. If the planning director determines that an application is not complete, then within twenty-eight (28) days after receiving the application, the planning director shall place in the mail (electronic mail acceptable) to the applicant a written statement that the application is incomplete based on a lack of information and listing

what is required to make the application technically complete; provided, however, an applicant may request or agree to an extension of the twenty-eight (28) day completeness review period.

- F. If the applicant receives a determination of the city that an application is not complete, the applicant shall have ninety (90) days to submit the necessary information to the city. The planning director may grant an extension to the ninety (90)-day time deadline for filing the required information. Within fourteen (14) days after an applicant has submitted the additional information requested in a notice of incompleteness, the city shall make a new determination of completeness as described herein, and notify the applicant in the same manner.
- G. If the required information is not submitted by the date specified and the planning director has not extended that date, the planning director may take one of the following actions as deemed appropriate by the planning director:
 - 1. Reject and return the application and eighty percent (80%) of the application fee(s) and mail to the applicant a written statement which lists the remaining additional information needed to make the application technically complete; or
 - 2. Issue a decision denying the application, based on a lack of information; or
 - 3. Allow the applicant to start the technically complete review process a second time by providing the required missing information by a date specified by the review authority, in which case the review authority shall retain the application and fee pending expiration of that date, or a technical review of the application as amended by that date.
- H. A determination of completeness for a project subject to environmental review under SEPA, including planned actions (which do not require threshold determinations), may be withdrawn in the following circumstances:
 - 1. There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts;
 - 2. There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; or
 - 3. The determination of completeness was procured by misrepresentation or lack of material disclosure.
 - 4. In the event that a determination of completeness is withdrawn and the responsible official determines that additional information is needed to process the application, the applicant shall be so notified, and the one-hundred-twenty-calendar-day period stayed pending receipt of the requested information by the city.

Article III. Time Limits for Permits and Permit Processing

15.01.080 Review Process I through III.

Except as otherwise provided in this title or by state law, the city shall provide a notice of decision as specified in EMC 15.02 on all Review Process II and III applications, and on any Review Process I applications which require a notice of decision, within one hundred twenty (120) days after the city notifies the applicant that the application is complete.

15.01.090 Determining time limits.

In determining the number of days that have elapsed after the city has notified the applicant that the application is complete, the following periods shall be excluded:

- A. Any period during which the applicant has been requested by the planning director to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the city notifies the applicant of the need for additional information until the earlier of the date the city determines whether the additional information satisfies the request for information or fourteen (14) days after the date the information has been provided to the local government;

- B. If the city determines that the information submitted by the applicant under subsection A of this section is insufficient, it shall notify the applicant of the deficiencies and the procedures under subsection A of this section shall apply as if a new request for studies had been made;
- C. Any period during which an environmental impact statement is being prepared following a SEPA determination of significance;
- D. Any period during which the applicant has requested an interpretation of applicable provisions of the city code and development regulations;
- E. Any period for which a threshold determination requires further information from the applicant and/or consultation with other agencies with jurisdiction, as determined by the responsible official, in which case the running of the one-hundred-twenty (120)-calendar-day period shall be stayed until the required information and/or consultation is provided;
- F. Any period for which a SEPA threshold determination requires further studies, including field investigations initiated by the city;
- G. Any time limits set forth in this section shall not apply to withdrawal of SEPA threshold determinations (DS, DNS) where such withdrawals are made in accordance with WAC 197-11-340 and 197-11-360;
- H. Any period for administrative appeals of project permits or SEPA determinations; and
- I. Any extension of time mutually agreed upon by the applicant and the city.

15.01.100 Exceptions.

The time limit requiring a final decision within one hundred twenty (120) days of the notice of application on a Review Process II or III decision does not apply if the land use permit application:

- A. Requires an amendment to the comprehensive plan or a development regulation;
- B. Requires approval of a new fully contained community as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.70A.200;
- C. Is substantially revised by the applicant, in which case the new one-hundred-twenty-day time period shall start from the date at which the revised project application is determined to be complete; or
- D. Results in a determination of completeness (of the application) being withdrawn under the determination of completeness or incomplete application, Section 15.01.050.

15.01.110 Time limit for Review Process I, II and III permits.

A. Review Process I

If a complete application has not been filed for a building permit or equivalent construction permit within two (2) years on a project for which a land use permit has been granted under Review Process I, and an extension has not been granted:

1. The land use permit shall be deemed to be terminated, except where a time limit on the land use permit is otherwise established by federal or state law, city ordinance, or an executed development agreement.
2. If the permittee requests an extension in writing not later than two (2) years from the land use permit date, the planning director may grant a six (6)-month extension.

B. Review Process II and III

If a complete application has not been filed for a building permit or equivalent construction permit within three (3) years on a project for which a land use permit has been granted under Review Process II or III, and an extension has not been granted:

1. The land use permit shall be deemed to be terminated, except where a time limit on the land use permit is otherwise established by federal or state law, city ordinance, or an executed development agreement.
2. If the permittee requests an extension in writing not later than three (3) years from the land use permit date, the planning director may grant a six (6)-month extension.
3. For any reapplication, the city may use the existing SEPA determination or may require new or additional environmental documents as provided by WAC 197-11-600.

15.01.210 Time periods and expiration of land division approvals.

See EMC 15.02.400.