

Planning Director Interpretation

2023-01

April 19, 2023

INTERPRETATION

RCW 36.70A.470 requires the city provide a path for a person or organization to propose a change to the comprehensive plan or development regulations¹ as part of the periodic update², which is a legislative process³. Chapter 15.03 EMC identifies amendments to the comprehensive plan⁴ or development regulations⁵ as quasi-judicial decisions. Chapter 15.02 EMC also identifies some proposed amendments as legislative decisions⁶.

This interpretation holds that during a periodic update process, formal requests for changes to the comprehensive plan or development regulations will be processed along with the periodic update as a legislative process pursuant to EMC 15.02.095.

For the periodic update due December 31, 2024, the city will combine 2023 and 2024 annual docket requests into the periodic update, with an application window in Spring 2023.

APPLICABILITY

This interpretation applies to non-city-initiated applications requesting amendment to the comprehensive plan or development regulations while a periodic update process under RCW 36.70A.130 is underway.

¹ "RCW 36.70A.470(2) requires that comprehensive plan amendment procedures allow interested persons... to suggest amendments of comprehensive plans or development regulations... These suggestions must be docketed and considered at least annually." (WAC 365-196-640(6))

² "If a [city] conducts a comprehensive plan docket cycle in the year in which the review of the comprehensive plan is completed, it must be combined with the periodic review process." (WAC 365-196-610)

³ "Cities must periodically take legislative action to review and, if needed, revise their comprehensive plans and development regulations" (WAC 365-196-610)

⁴ "Amendments to the comprehensive plan may include both text (e.g., goals and policies) and maps (e.g., land use designations)... Amendments are considered by Review Process V." (EMC 15.03.400) "REV V actions are a quasi-judicial decision." (EMC 15.02.090)

⁵ "An area-wide rezone is considered by Review Process V... [a site-specific rezone with comprehensive plan amendment] is considered by Review Process V. ... [A site-specific rezone without a comprehensive plan amendment] is considered by Review Process IIIB. ... Unified Development Code Text Amendments ... are considered by Review Process V." (EMC 15.03.300) "REV IIIB ... are ... quasi-judicial decisions" (EMC 15.02.090(B)(2)) "REV V actions are a quasi-judicial decision." (EMC 15.02.090(A))

⁶ "The following land use actions are considered legislative actions of the city council. 1. Adoption or amendment to the comprehensive plan or land use map; ... 4. Area-wide rezone in conjunction with a comprehensive plan land use map change; 5. Adoption or amendment to development regulations." (EMC 15.02.095)



INTRODUCTION

State law requires the city to conduct a periodic process to update its comprehensive plan and development regulations every ten years⁷, with early and continuous public participation⁸. State law also provides for a process under which property owners and other affected and interested individuals, tribes, agencies, businesses, and organizations may formally request an amendment to the comprehensive plan and/or development regulations⁹ between periodic updates (docketing) and as part of the update process.

This interpretation is issued to clarify the review process for docket applications during a periodic update process.

BACKGROUND – STATE LAW

“Docket”

RCW [36.70A.470](#) requires the city to adopt, in municipal code, a defined method for any interested person, including applicants, citizens, hearing examiners, and staff of other agencies to suggest amendments to the comprehensive plan or development regulations. The suggested amendments shall be docketed and considered on at least an annual basis, consistent with the provisions of RCW [36.70A.130](#). (Legislative intent: a means by which cities and counties will docket suggested plan or development regulation amendments and ensure their consideration during the planning process).

Public participation

RCW [36.70A.130\(2\)\(a\)](#) requires the city to establish and broadly disseminate to the public a public participation program that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the city council no more than once per year.

The public participation program (RCW [36.70A.140](#)) must identify procedures providing for early and continuous public participation in the development and amendment of comprehensive plans and development regulations. The procedures shall provide for

- Broad dissemination of proposals and alternatives
- Opportunity for written comments
- Public meetings after effective notice
- Provision for open discussion
- Communication programs
- Information services
- Consideration of and response to public comments.

The public participation program must also include notice procedures (RCW [36.70A.035](#)) that are reasonably calculated to provide notice of proposed comprehensive plan and development regulation amendments to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, public water systems, and organizations. Examples of reasonable notice provisions include:

- Posting the property for site-specific proposals;

⁷ RCW [36.70A.130](#), WAC [365-196-610](#)

⁸ RCW [36.70A.140](#), WAC [365-196-600](#)

⁹ RCW [36.70A.470](#), WAC [365-196-640\(6\)](#)



- Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located or that will be affected by the proposal;
- Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;
- Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and
- Publishing notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.

Everett Municipal Code

EMC 15.02.700(C) provides that any interested person, including applicants, citizens, hearing examiners, city officials, and staff of other agencies, may suggest plan or development regulation amendments in writing to the planning director, which shall be docketed and considered on at least an annual basis, consistent with the provisions of RCW 36.70A.130.

EMC 15.03.300 addresses changes to the unified development code, otherwise known as the city's development regulations, or zoning code. All changes to zoning classifications, or rezones, are identified as a Review Process V or IIIB, both of which include quasi-judicial decisions by the city council.

A. Area-Wide Rezones.

1. Description. An area-wide rezone is to change the zoning classification that is not site-specific.
2. Who May Initiate. Only the city may initiate area-wide rezones; the area-wide rezone may be initiated by the city council, mayor or designee.
3. Review Process. An area-wide rezone is considered by Review Process V. See Chapter 15.02 for procedures.

B. Site-Specific Rezones.

1. Description. A site-specific rezone is to change the zoning classification of a specific property or properties.
2. Who May Initiate. Site specific rezones may be initiated by the city or all property owners in the requested rezone area.
3. Review Process.
 - a. If the rezone includes an application to amend the comprehensive plan, the site-specific rezone is considered by Review Process V. See Chapter 15.02 for procedures.
 - b. If the rezone does not require an amendment to the Comprehensive Plan, the site-specific rezone is considered by Review Process IIIB. See Chapter 15.02 for procedures.

EMC 15.03.400 addresses changes to the comprehensive plan. All changes to the plan are identified as a Review Process V, which includes a quasi-judicial decision by the city council.

15.02.095 Legislative actions.

A. *Description.* Several land use decisions are the discretionary authority of the city council. These decisions are not subject to the local project review procedures set forth in this chapter. These legislative actions require a recommendation from the planning commission.

B. *Decisions Included.* The following land use actions are considered legislative actions of the city council.

1. Adoption or amendment to the comprehensive plan or land use map;
2. Adoption or amendment of subarea plans;
3. Planned action ordinance or resolution;
4. Area-wide rezone in conjunction with a comprehensive plan land use map change;
5. Adoption or amendment to development regulations.



AUTHORITY FOR THIS INTERPRETATION

EMC 15.02.800 Interpretations of land use regulations (part)

The planning director is authorized to issue interpretations of the land use and development regulations as necessary and to promulgate rules and procedures as consistent with the terms of this title. Such interpretations shall constitute Review Process I decisions.

EMC 19.41.050 Promulgation of rules, procedures and interpretations.

The planning director is authorized to promulgate administrative rules, procedures and interpretations consistent with the terms of this title. Appeals of any such rule, procedure, interpretation or other administrative determination made by the planning director shall be made in accordance with the appeal procedures as set forth in EMC Title 15, Local Project Review Procedures.



Yorik Stevens-Wajda, Planning Director

4/19/23
Date

APPEALS

This decision may be appealed to the City's Hearing Examiner within 14 days of the issuance of this decision. For information about appeals, please refer to [EMC 15.02.600](#).

