

**ORDINANCE 1303 – HEARING EXAMINER REVIEW OF  
CITY INITIATED APPLICATIONS**

***THE CITY OF WOODLAND, WASHINGTON***

**AN ORDINANCE TO AMEND WMC TITLE 17 – ZONING, AND TITLE 19, DEVELOPMENT ADMINISTRATION, ADDING LANGUAGE TO DIRECT CITY OF WOODLAND INITIATED LAND USE APPLICATIONS TO THE HEARING EXAMINER FOR REVIEW AND DECISION AND AUTHORIZE A PUBLICATION BY SUMMARY**

**WHEREAS**, the City of Woodland is often the applicant on a variety of land use project proposals;

**WHEREAS**, there have been applications submitted by the City of Woodland that City staff have reviewed and made decision on;

**WHEREAS**, staff feels this is a potential conflict of interest and an inquiry with the Municipal Research and Services Center affirmed the correct way to handle this would be to amend the code for allow for review/decision of City initiated applications by the Hearing Examiner;

**WHEREAS**, a public hearing was held before the Woodland Planning Commission on July 24, 2014 and, following the hearing, the Commission made a motion to forward the ordinance to the Woodland City Council with an *Affirmative* recommendation;

**WHEREAS**, pursuant to RCW 35A.11.020 and the Constitution of Washington, Article 11, Section 11, cities have the power to enact regulations in the interest of the health, safety, and welfare of their residents;

**WHEREAS**, all procedural requirements of the Woodland Municipal Code (WMC) for these amendments have been met; and

**NOW THEREFORE BE IT ORDAINED** by the City Council of the City of Woodland as follows:

**1. Repeal and Replace WMC 19.08.030**

Old Section WMC 19.08.030 - The existing code section to be superseded and replaced reads as follows:

**19.08.030 - Review and appeal authority.**

The following table describes development permits and the final decision and appeal authorities.

All applicable administrative appeals shall be exhausted prior to initiation of judicial review. All judicial appeals shall be made to county superior court in accordance with RCW 36.70.C except comprehensive plan policy decisions or updates which may be appealed to the State Growth Management Hearings Board and final shoreline permit actions which may be appealed to the Shoreline Hearings Board. As per WMC 19.06.050, appeal of the city's procedural SEPA decision or threshold determination shall be consolidated with a hearing or appeal on the underlying governmental action in a single simultaneous hearing before the hearing examiner and any further appeal shall be made to Cowlitz or Clark County Superior Court. When decision making authority rests with the city council, appeal shall be to the county superior court. Appeal procedures for decisions and interpretations of the fire chief and building official are set forth in WMC 14.48.

New Section WMC 19.08.030 – The code section is amended to read as follows:

**19.08.030 - Review and appeal authority.**

The following table describes development permits and the final decision and appeal authorities.

All applicable administrative appeals shall be exhausted prior to initiation of judicial review. All judicial appeals shall be made to county superior court in accordance with RCW 36.70.C except comprehensive plan policy decisions or updates which may be appealed to the State Growth Management Hearings Board and final shoreline permit actions which may be appealed to the Shoreline Hearings Board. As per WMC 19.06.050, appeal of the city's procedural SEPA decision or threshold determination shall be consolidated with a hearing or appeal on the underlying governmental action in a single simultaneous hearing before the hearing examiner and any further appeal shall be made to Cowlitz or Clark County Superior Court. When decision making authority rests with the city council, appeal shall be to the county superior court. Appeal procedures for decisions and interpretations of the fire chief and building official are set forth in WMC 14.48. City applications for any project proposal will go before the Hearing Examiner with a staff recommendation and report.

Key: R	=	Recommendation to Higher Review Authority	D	=	Decision	
	OP	=	Open Record Pre-decision Hearing	SR	=	Staff Recommendation with Staff Report
	C	=	Closed Record Appeal Hearing	A	=	Appeal Decision
	ORH	=	Open Record Hearing			

	Public Works Department Staff	Development Review Committee	Hearing Examiner	Planning Commission	City Council
<b>ZONING</b>					
ADMINISTRATIVE CONDITIONAL USE PERMITS	D		A (ORH)		
CONDITIONAL USE PERMITS		SR	D (OP)		A (C)
MINOR MODIFICATION TO APPROVED CONDITIONAL USES AND ADMINISTRATIVE CONDITIONAL USES		D		A (ORH)	
ADMINISTRATIVE TEMPORARY USE PERMITS	D		A (ORH)		
MAJOR VARIANCE		SR	D (OP)		A (C)
MINOR VARIANCE		D		A (ORH)	
SITE SPECIFIC ZONE CHANGES		SR		R (OP)	D
ZONING TEXT AMENDMENT (DEVELOPMENT REGULATION CHANGES)		SR		R (OP)	D
AREA WIDE MAP AMEND		SR		R (OP)	D
<b>COMPREHENSIVE PLAN</b>					
COMPREHENSIVE PLAN TEXT AMENDMENT		SR		R (OP)	D
COMPREHENSIVE PLAN MAP AMENDMENT		SR		R (OP)	D

LAND DIVISION					
RE-PLAT	SR		D (OP)		A (C)
PLAT VACATION	SR		D (OP)		A (C)
BOUNDARY LINE ADJUSTMENT	D				A (ORH)
PRELIMINARY PLAT		SR		R (OP)	D
VARIANCE RELATED TO PRELIMINARY PLAT		SR		R (OP)	D
PHASING AND EXPIRATION EXTENSION OF APPROVED PRELIMINARY PLAT		D			A (ORH)
SHORT PLAT	D				A (ORH)
VARIANCE RELATED TO SHORT PLAT		SR			D (OP)
FINAL PLAT		SR		R	D
PLANNED UNIT RESIDENTIAL DEVELOPMENT		SR		R (OP)	D
BINDING SITE PLAN (UNDER 5 ACRES)	D	D	A (ORH)		
BINDING SITE PLAN (5 ACRES OR LARGER)		SR		R (OP)	D
ENVIRONMENTAL					
CRITICAL AREAS PERMIT	D		A (ORH)		
SEPA PROCEDURAL DETERMINATION					
1. DNS	D		A (ORH) <sup>*1</sup>		
2. MDNS	D		A (ORH) <sup>*1</sup>		
3. DS/EIS	D		A (ORH) <sup>*1</sup>		

SHORELINES					
SUBSTANTIAL DEVELOPMENT PERMIT		SR	D (OP) <sup>*2</sup>		
CONDITIONAL USE PERMIT		SR	D (OP) <sup>*2</sup>		
VARIANCE		SR	D (OP) <sup>*2</sup>		
EXEMPTION	D		A (ORH) <sup>*2</sup>		
EXTENSION OF SHORELINE RELATED PERMIT	D		A (ORH)		
SITE PLAN REVIEW					
TYPE I SITE PLAN REVIEW	D		A (ORH)		
TYPE II SITE PLAN REVIEW		D	A (ORH)		
OTHER					
BUILDING/GRADING/FILL PERMIT W/SEPA	Building Official				
SIMILAR USE DETERMINATION		SR		D	A (ORH)
FLOODPLAIN DEVELOPMENT PERMIT	D <sup>*4</sup>		A (ORH)		
APPEAL OF ENFORCEMENT ACTION PER WMC <u>17.92</u>		SR	A (ORH)		
APPEAL OF ADMINISTRATIVE DECISIONS UNRELATED TO SEPA OR ENFORCEMENT ACTION PER WMC <u>17.92</u>		SR	D (OP)		A (C)
APPEAL OF DECISIONS RELATED TO TAKINGS OR SUBSTANTIVE DUE PROCESS RELATED ISSUES AS OUTLINED IN WMC <u>17.81.095</u>		D	A (ORH)		
WAIVER OF VIOLATION AS OUTLINED IN WMC 17.81.020.C			D (OP)		

<sup>\*1</sup> See WMC 19.06.040 and 19.06.050

<sup>\*2</sup> Appeals of the hearing examiner's decisions shall be reviewed by the Shoreline Hearings Board. Shoreline conditional use permits and variances must also be approved by the Department of Ecology.

<sup>\*3</sup> Unless the appeal includes SEPA related matters in which case appeal is to hearing examiner as set forth in WMC 19.06.050

<sup>\*4</sup> Preferably the city's floodplain manager.

#### **WMC 17.81.020 Creation of land use hearing examiner.**

The office of Woodland municipal land use hearing examiner, hereinafter referred to as "examiner," is created. The examiner shall interpret, review, and implement land use regulations and policies as provided in this chapter or by other ordinances of the city, including but not limited to the following:

A. Conditional Uses per Chapter 17.72. Applications for conditional uses when the zoning ordinance sets forth the specific uses to be made subject to conditional use permits.

B. Major Variances. A major variance shall be defined as a variance to a measurable zoning standard which does not fall under a category of minor variances as outlined in WMC 17.81.180.A. The examiner shall decide upon application for major variances from the terms of this title; provided that any variance granted shall be subject to such conditions as will assume that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located; and:

1. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to other properties in the vicinity and in the same zone in which the subject property is located; and
2. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated;
3. If such permit for variance is denied, no reapplication shall be made within one year from the date of denial;
4. An approved variance will go with or be assigned to the subject property and shall not be transferable to another property;
5. No use variance shall be granted except for lawfully created pre-existing uses in accordance with WMC 17.60.

C. Violations. Recognizing the fact that a building may be erected in good faith with every intent to comply with the provisions of this title in respect to the location of the building upon the lots and the size and location of required yards, and that it may later be determined that such building does not comply in every detail with such requirements, although not violating the spirit or intent of this title, the examiner may issue a waiver of violation, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

D. All appeals regarding SEPA matters, shoreline exemptions and supplemental environmental impact statements.

E. Issuance of replats, plat vacations, shoreline development permits, shoreline conditional use permits and shoreline variances. See also Section 19.08.030 describing decision making and appeal authority of the hearing examiner.

F. Appeals regarding written administrative decisions concerning a land use or environmental permit application as outlined in WMC 19.08.030 or written interpretations of a provision of the Woodland Municipal Code (WMC) issued by the Development Review Committee (DRC) or Public Works Director.

**2. New Section. WMC 17.81.020 to be added to read as follows:**

G. All City applications for any type of project proposal.

ADOPTED this 6TH day of October, 2014.

CITY OF WOODLAND, WASHINGTON

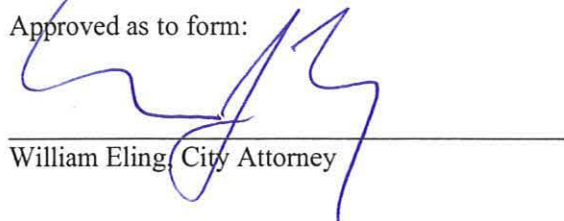
Approved:

  
Grover Laseke, Mayor

Attest:

  
Mari E. Ripp, Clerk / Treasurer

Approved as to form:

  
William Eling, City Attorney



**SUMMARY OF ORDINANCE NO. 1303  
OF THE CITY OF WOODLAND, WASHINGTON**

On October 6, 2014 the City Council of the City of Woodland, Washington, approved Ordinance No. 1303 the main point which may be summarized by its title as follows:

**AN ORDINANCE OF THE CITY OF WOODLAND, WASHINGTON, TO AMEND WMC TITLE 17 (ZONING), AND TITLE 19, DEVELOPMENT ADMINISTRATION, ADDING LANGUAGE TO DIRECT CITY OF WOODLAND INITIATED LAND USE APPLICATIONS TO THE HEARING EXAMINER FOR REVIEW AND DECISION AND AUTHORIZING A PUBLICATION BY SUMMARY.**

The full text of this Ordinance will be mailed upon request.

APPROVED by the City Council at their meeting on 6<sup>th</sup> day of October, 2014.

  
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Mari E. Ripp, Clerk-Treasurer

Published:     October 15, 2014  
Effective:     October 20, 2014