

TYPE IV LEGISLATIVE DECISIONS

PROCEDURES FOR AMENDMENTS TO THE
COMPREHENSIVE PLAN
AND DEVELOPMENT REGULATIONS UNDER THE
GROWTH MANAGEMENT ACT

CLEAN COPY – TITLE 40 AMENDMENTS

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40.510.040 Type IV Process – Legislative Decisions

A. Decision.

1. The provisions of this section apply to all Type IV legislative decisions, which include and are limited to adoption or amendment, pursuant to the Growth Management Act (GMA), Chapter 36.70A RCW and Chapter 40.560, of the following:
 - a. comprehensive plan map and text, and zoning change consistent with the map change;
 - b. development regulations;
 - c. Arterial Atlas; and
 - d. Shoreline Master Program (SMP) pursuant to the Shoreline Management Act, Chapter 90.58 RCW, and Chapter 40.460.
2. This section is intended to supplement, and not to limit, county authority and procedures for adopting legislation.
3. When revisions to the comprehensive plan are made through the periodic update pursuant to RCW 36.70A.130(5), the procedures in this chapter are to be used as a guide, with the exception that public noticing per 40.510.040(E)(1)(b)(4) is not required.

B. Process.

1. Adoption or amendment of the comprehensive plan and development regulations is a legislative decision, rather than a project specific decision. The legislative process includes a public hearing before the Clark County Council and may include a public hearing before the planning commission. It is designed to solicit a broad range of public input at all levels pursuant to RCW 36.70A.035.
2. A Type IV decision shall be final and conclusive unless an appeal is timely filed to the growth management hearings board in accordance with RCW 36.70A.280 and RCW 36.70A.290, except as otherwise provided by law.
3. Council legislative action on other matters is governed by the Clark County Home Rule Charter and other applicable law, and is not subject to this section.

C. Procedure.

1. A Type IV procedure may include one or more public hearings before the planning commission and includes one or more public hearings before Council.
2. Planning commission review is not required for interim actions, moratoria, and emergency legislation authorized by RCW 35.63.200, RCW 36.70A.130(2)(b), or RCW 36.70A.390 as described in Section 40.510.040(H).

D. Staff Report to the Planning Commission.

1. At least fifteen (15) calendar days before the date of the first planning commission hearing, the responsible official shall:
 - a. issue a written staff report and State Environmental Policy Act (SEPA) official determination regarding the application(s) pursuant to Chapter 40.570;
 - b. post the staff report and SEPA official determination to the Clark County website; and
 - c. provide a copy of the staff report at reasonable charge to any member of the public who requests it.

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- 1 E. Public Notice.
- 2 1. For a site-specific application or a county initiated site-specific request under Section 40.560, at
3 least fifteen (15) calendar days before the date of the first planning commission hearing, the
4 responsible official shall:
- 5
- 6 a. Prepare a notice of application that includes the following information:
- 7 (1) The case file number(s);
- 8 (2) A description and map(s) of the area that will be affected by the application, if
9 approved, which is reasonably sufficient to inform the reader of its location;
- 10 (3) A summary of the proposed application(s);
- 11 (4) The date, time, and place, where information about the application may be examined
12 and the name and contact information for the county representative to contact about
13 the application;
- 14 (5) A statement that the notice is intended to inform potentially interested parties about
15 the hearing and to invite interested parties to appear orally or by written statement at
16 the hearing;
- 17 (6) The date, time, and place of the Planning Commission hearing, and a statement that
18 the hearing will be conducted in accordance with the rules of procedure adopted by
19 the Planning Commission;
- 20 (7) A statement that a staff report and, whenever possible, a SEPA review document, will
21 be available for inspection at no cost at least fifteen (15) calendar days before the
22 hearing and will be provided at reasonable cost; and
- 23 (8) A general explanation of the process for submitting testimony and the conduct of the
24 hearing.
- 25
- 26 b. Send written notice prepared under Section 40.510.040(E)(1)(a) to:
- 27 (1) The applicant and the applicant's representative;
- 28 (2) Any person who has submitted a written request for notice of such matters;
- 29 (3) The neighborhood association in whose area the subject property is situated, based
30 on the list of county recognized neighborhood associations kept by the responsible
31 official; and
- 32 (4) Owners of record of property within three hundred (300) feet of the subject property
33 if the subject property is inside the urban growth boundary, or to owners or property
34 within five hundred (500) feet of the subject property if the subject property is outside
35 the urban growth boundary;
- 36 (i) The records of the County Assessor shall be used for determining property
37 owners of record. The failure of a property owner to receive notice shall not affect
38 the validity of the decision if the notice was sent. A Clark County Ship Request
39 Form and a copy of the mailing labels executed by the person who did the
40 mailing shall be evidence that notice was mailed to parties listed or referenced in
41 the certificate; and
- 42 (ii) If the applicant owns property adjoining the property that is the subject of the
43 application, then notice shall be mailed to owners of property within five hundred
44 (500) feet of the boundary of the property owned by the applicant adjoining or
45 contiguous to the subject property; and
- 46 (5) Agencies with jurisdiction.
- 47
- 48 c. Publish in a newspaper of general circulation a summary of the notice, including the date,
49 time, and place of the hearing, staff contact information, and a summary of the subject of the
50 Type IV process.
- 51
- 52 d. Provide other notice deemed appropriate and necessary by the responsible official based on
53 the subject of the Type IV process.
- 54

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- 1 2. For comprehensive plan amendments or development regulations implementing the
2 comprehensive plan under Chapter 40.560, at least fifteen (15) calendar days before the date of
3 the first planning commission hearing, the responsible official shall:
4
 - 5 a. Publish in a newspaper of general circulation a summary of the notice, including the date,
6 time, and place of the hearing, staff contact information, and a summary of the subject of
7 the Type IV process pursuant to Section 40.510.040(E)(1)(a).
 - 8 b. Provide other notice deemed appropriate and necessary by the responsible official based
9 on the subject of the Type IV process pursuant to RCW 36.70A.035 and RCW
10 36.70A.140.
11

12 F. Planning Commission Hearings.

- 13 1. Planning Commission hearings shall be conducted in accordance with the rules of procedure
14 adopted by the Planning Commission; provided, that the Planning Commission Chair shall
15 preside over the meeting and may modify the procedural rules as necessary and reasonable. A
16 public hearing shall be recorded electronically.
- 17 2. At the conclusion of a planning commission hearing, the planning commission shall announce
18 one (1) of the following actions:
 - 19 a. That the planning commission recommends against or in favor of approval of the proposal,
20 with or without amendment, or that the planning commission will recommend neither against
21 nor for approval of the application(s), together with a brief summary of the basis for the
22 recommendation and posted to the website within three (3) business days following the
23 hearing.
 - 24 b. The planning commission recommendation shall be by the affirmative vote of the majority of
25 the quorum present.
 - 26 c. A hearing may be continued if it extends past 10p.m. on any evening. If the hearing is
27 continued to a place, date, and time certain, then additional notice of the continued hearing
28 need not be mailed, published or posted. If the hearing is not continued to a place, date, and
29 time certain, the county shall provide notice of the continued hearing as though it was the
30 initial hearing before the planning commission.
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32 G. Council Hearings

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35 1. Council hearings shall be conducted in accordance with the rules of procedure adopted by the
36 Council; provided, that the Council Chair shall preside over the meeting and may modify the
37 procedural rules as necessary and reasonable. A public hearing shall be recorded electronically.
38
- 39 2. At least 60 days before the council hearing, the responsible official shall issue a notification to the
40 Department of Commerce pursuant to WAC 365-196-630 of its intent to propose adoption or
41 amendment of a comprehensive plan or development regulation.
42
- 43 3. At least fifteen (15) calendar days before the date of the first Council hearing, the responsible
44 official shall:
 - 45 a. Provide a written copy of the Planning Commission's recommendation to the Council;
 - 46 b. Prepare a notice that includes the information listed in Section 40.510.040(E) except the notice
47 shall be modified as needed:
 - 48 (1) To reflect any changes made in the application(s) during the planning commission review;
 - 49 (2) To reflect that Council will conduct the hearing, and date, time, and place of the Council
50 hearing; and
 - 51 (3) To state that the planning commission recommendation and SEPA determination are
52 available for inspection at no cost and copies will be provided at reasonable cost;

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- 1 c. Provide a written copy of that notice to the parties identified in Section 40.510.040(E);
- 2 d. Publish in a newspaper of general circulation a summary of the notice, including the date,
- 3 time, and place of the hearing and a summary of the subject of the Type IV process; and
- 4 e. Provide other notice deemed appropriate and necessary by the responsible official based on
- 5 the subject of the Type IV process.

- 6 4. At the conclusion of its initial hearing, Council may continue the hearing or may adopt, modify or
- 7 give no further consideration to the application or recommendations. If the hearing is continued to
- 8 a place, date, and time certain, then additional notice of the continued hearing is not required to
- 9 be provided. If the hearing is not continued to a place, date and time certain, then notice of the
- 10 continued hearing shall be given as though it was the initial hearing before the council.

- 11 H. Interim Actions, Moratoria, and Emergencies.
- 12 1. The Council may adopt a Type IV action as an interim action, a moratorium, or an emergency
- 13 under RCW 35.63.200 or RCW 36.70A.390.
- 14 2. Except as provided in Section 40.510.040(E)(2), the Council may adopt a Type IV action by
- 15 emergency action only after holding at least one public hearing following public notice as
- 16 described in Section 40.510.040(E)(2).
- 17 3. Pursuant to RCW 35.63.200 and RCW 36.70A.390, the Council may adopt a Type IV action that
- 18 is a moratorium, interim zoning map, interim zoning ordinance, or interim official control without
- 19 holding a public hearing, if within at least sixty (60) days of its adoption the Council holds a public
- 20 hearing following public notice as described in Section 40.510.040(E)(2) and adopts findings in
- 21 support of the action.
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40.560 PLAN AND CODE AMENDMENTS

40.560.010 Plan Amendment Procedures

A. Purpose.

1. The purpose of this section is to set forth procedures for adoption or amendment of the comprehensive plan and development regulations pursuant to applicable provisions of the Growth Management Act, Chapter 36.70A RCW (GMA), the Shoreline Master Program (SMP) pursuant to the Shoreline Management Act, Chapter 90.58 RCW (SMA), the State Environmental Policy Act, Chapter 43.21C RCW (SEPA), and the Washington Administrative Code (WAC).
2. Plan amendments will be reviewed in accordance with applicable provisions of the GMA, SEPA, the WAC, the countywide planning policies, the community framework plan, the goals and policies of the comprehensive plan, Clark County Code, the capital facilities plans, and official population growth forecasts.
3. The SMP will be reviewed in accordance with the goals, policies and regulations of the SMP, consistently with the SMA and the state shoreline guidelines in Chapter 173-26 WAC, and with SEPA.

(Amended: Ord. 2007-09-13; Ord. 2017-07-04; Ord. 2018-01-01)

B. Applicability.

All amendments to the comprehensive plan are legislative actions subject to Type IV process Section 40.510.040. The criteria and requirements of this section apply to all applications or proposals for changes to the comprehensive plan including:

1. Countywide comprehensive plan map changes involving urban growth area (UGA) boundary changes and rural map changes;
2. Comprehensive plan map changes not involving a change to UGA boundaries;
3. Comprehensive plan policy or text changes;
4. Arterial Atlas amendments;
5. Changes to other plan documents (such as capital facilities and the shoreline master program);
6. Amendments that may be reviewed and acted upon outside the annual amendment cycle are subject to the review criteria established in this chapter, and are limited to the following:
 - a. Resolution of an emergency condition or situation that involves public health, safety or welfare, when adherence to the amendment process set forth in this section would be detrimental to the public health, safety or welfare;
 - b. The initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea, if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under SEPA;
 - c. The adoption or amendment of a shoreline master program pursuant to Ch. 90.58 RCW;
 - d. To resolve an appeal of a comprehensive plan adoption or amendment filed with the Growth Management Hearings Board or a court of competent jurisdiction pursuant to RCW 36.70A.300;
 - e. Siting of major industrial developments and/or master planned locations outside UGA boundaries consistent with the requirements of state statute RCW 36.70A.365;

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- 1 f. The amendment of the capital facilities element of the comprehensive plan that occurs
- 2 concurrently with the adoption of the county budget pursuant to RCW 36.70A.130(2)(a)(iv); or
- 3 g. Technical, non-substantive corrections to obvious land use mapping errors which do not
- 4 involve interpretation or application of the criteria for the various land use designations
- 5 contained in the Comprehensive Plan.

6
7 Item (1) above may only occur consistent with RCW 36.70A.130. Item (2) above may be initiated
8 by either the county or a property owner. Items (3), (4), (5) and (6) above may only be initiated by
9 the county.

10
11 (Amended: Ord. 2004-09-02; Ord. 2007-09-13; Ord. 2016-09-04; Ord. 2017-07-04; Ord. 2018-01-01)

12 13 C. Annual Review Cycle.

- 14
15 1. Proposed annual site-specific comprehensive plan amendments pursuant to RCW 36.70A.130(2)
- 16 that are submitted for review are subject to a Type IV process pursuant to Section 40.510.040.
- 17
18 2. Applications for plan map amendments are generally processed in conjunction with concurrent
- 19 rezone requests. Rezone applications considered with a plan map amendment request are
- 20 reviewed consistent with the plan designation to zone consistency tables in Chapter 1 Land Use
- 21 of the comprehensive plan, and according to the procedures and timing specifications for plan
- 22 map amendment specified in this section. Rezone applications considered with a plan map
- 23 amendment request must comply with Section 40.560.020 and Section 40.510.040.

24
25
26 (Amended: Ord. 2007-09-13; Ord. 2017-07-04; Ord. 2018-01-01)

27 28 D. Governmental Coordination.

- 29
30 1. The county shall coordinate the annual review process with each city and town.

31
32
33 (Amended: Ord. 2007-09-13; Ord. 2017-07-04; Ord. 2018-01-01)

34 35 E. Comprehensive Plan Map Changes – General.

36
37 All plan map changes must be accomplished through the following:

- 38
39 1. Changes approved by the county as a result of a comprehensive periodic review of the plan to be
- 40 initiated by Clark County pursuant to RCW 36.70A.130(5)(b);
- 41
42 2. Changes approved by the county in response to county initiated amendments, or property owner
- 43 site-specific request, not more than once per year pursuant to RCW 36.70A.130(2)(a);
- 44
45 3. Out of cycle amendments, as authorized by RCW 36.70A.130(2), initiated and approved by the
- 46 county at any time;
- 47
48 4. Applications for map changes and urban growth area boundary amendments must be consistent
- 49 with the plan designation to zone consistency tables in Chapter 1 Land Use of the comprehensive
- 50 plan and accompanied by concurrent rezone applications;
- 51
52 5. A county-initiated proposal for siting major industrial facilities consistent with RCW 36.70A.365,
- 53 and processed if accompanied by a current property owner-submitted rezone application;
- 54
55 6. The county shall assess the cumulative impacts of all proposed plan map changes prior to council
- 56 taking action. Monitoring benchmarks may be used to assess impacts.

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2 (Amended: Ord. 2004-09-02; Ord. 2007-09-13; Ord. 2017-07-04; Ord. 2018-01-01)
3

4 F. Criteria for All Map Changes.

5
6 Map changes may only be approved if all of the following are met:

- 7
8 1. The proponent shall demonstrate that the proposed amendment is consistent with the applicable
9 requirements of the GMA and the WAC, the county comprehensive plan, the county code, and
10 official population growth forecasts; and
- 11
12 2. The proponent shall demonstrate that the designation is in conformance with the appropriate
13 locational criteria identified in the plan; and
- 14
15 3. The map amendment or site is suitable for the proposed designation, and there is a lack of
16 appropriately designated alternative sites within the vicinity; and
- 17
18 4. The plan map amendment either: (a) responds to a substantial change in conditions applicable to
19 the area within which the subject property lies; (b) better implements applicable comprehensive
20 plan policies than the current map designation; or (c) corrects an obvious mapping error; and
- 21
22 5. Where applicable, the proponent shall demonstrate that the full range of urban public facilities and
23 services can be adequately provided in an efficient and timely manner to serve the proposed
24 designation. Such services may include water, sewage, storm drainage, transportation, fire
25 protection, and schools. Adequacy of services applies only to the specific change site.
26

27 (Amended: Ord. 2007-09-13; Ord. 2017-07-04; Ord. 2018-01-01)
28

29 G. Additional Criteria for Rural Map Changes.

30 31 1. Natural Resource Land Designation

32 The proponent of an amendments to the plan map for changing a natural resource land
33 designation to a smaller lot size natural resource land designation shall demonstrate that all of the
34 following criteria have been met:

- 35 a. The amendment complies with applicable provisions of GMA and the WAC;
- 36 b. The requested change does not impact the character of the area to the extent that further
37 plan map amendments will be warranted in future annual reviews; and
- 38 c. The amendment meets the locational criteria for the requested designation.
39

40 2. Rural Centers.

- 41 a. The county shall consider and evaluate the expansion of, or change of land use within, a rural
42 center through the annual review process under this chapter.
- 43 b. The county shall consider and evaluate the creation of a rural center through the docket
44 process under this chapter.
- 45 c. Before the county considers establishing a new rural center, the proponent(s) shall submit to
46 the county a petition signed by at least sixty percent (60%) of the property owners of the land
47 within the boundaries of the proposed new rural center.
- 48 d. The proponent of an amendment to create or expand a rural center shall demonstrate that all
49 of the following criteria have been met:
 - 50 (1) The proposed rural center complies with the provisions of RCW 36.70A.070(5)(d); and
 - 51 (2) The requested change does not impact the character of the area to the extent that further
52 plan map amendments will be warranted in future annual reviews; and
 - 53 (3) The site does not meet the criteria for the existing resource plan designation; and
 - 54 (4) The amendment meets the locational criteria for the requested designation.
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- 1 3. The county may consider changes to the urban reserve overlay only during a comprehensive plan
2 periodic review and not on an annual basis.

3
4 (Amended: Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2017-07-04; Ord. 2018-01-01)

5 6 **H. Additional Criteria for Rural Major Industrial Map Changes.**

7
8 This section governs designations outside of UGAs for major industrial developments under RCW
9 36.70A.365.

- 10
11 1. Application. The county shall process an application for a rural industrial development ~~sites~~
12 designation pursuant to RCW 36.70A.365 as a Type IV legislative action pursuant to Section
13 40.510.040 and this chapter.
14
15 2. Rural industrial designations require a minimum of one hundred (100) acres and a maximum of
16 seven hundred (700) acres in size, and are designated as follows:
17 a. Comprehensive Plan.
18 (1) Major industrial developments (light industrial).
19 (2) Major industrial land banks (light industrial).
20 b. Zoning.
21 (1) Major industrial developments (IL).
22 (2) Major industrial land banks (IL).
23
24 3. Process. Prior to formally proposing a designation under this section, the county shall:
25 a. Undertake an inventory of available urban industrial land;
26 b. Consult with affected city(ies) regarding a proposed designation;
27 c. Make a preliminary assessment that the applicable statutory criteria are met and that the
28 proposed location is superior to other potential rural sites;
29 d. Negotiate an appropriate or statutorily required interlocal agreement with affected city(ies);
30 and
31 e. Complete a master plan for the development site as required pursuant to Section 40.520.075.
32
33 4. Approval Criteria.
34 a. In addition to the other applicable designation criteria under this chapter, major industrial
35 developments or major industrial land banks may only be approved upon a finding that the
36 requirement and criteria of RCW 36.70A.365, respectively, are met.
37 b. Development Agreement. No designation under this section may be approved unless
38 accompanied by a development agreement pursuant to RCW 36.70B.170 and Section
39 40.350.020 which at a minimum assures compliance with statutory requirements and criteria.
40
41 5. Adjacent Non-Urban Areas. A designation under this section does not permit urban growth in
42 adjacent non-urban areas.

43
44 (Amended: Ord. 2004-09-02; Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2012-12-14; Ord. 2014-12-16; Ord.
45 2017-07-04; Ord. 2018-01-01)

46 47 **I. Additional Required Criteria Specific to Urban Holding Map Changes.**

48
49 1. Plan map and rezone amendments proposing to remove the urban holding designation must be
50 processed through a Type IV process initiated by the county and be consistent with the
51 procedures and criteria identified in Chapter 14 of the comprehensive plan, Procedural
52 Guidelines.

53
54 2. All development agreements are subject to Chapter 40.350.

55 56 **J. Additional Required Criteria Specific to Urban Growth Area (UGA) Boundary Map Changes.**

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1. The county shall adopt countywide growth targets, and regional sub-allocations, and shall map corresponding UGA boundaries and designations as follows:
 - a. Adopt countywide twenty (20) year target population and employment levels consistent with official State of Washington Office of Financial Management (OFM) population growth forecasts ranges; and
 - b. Officially sub-allocate the adopted countywide population and employment targets to urban growth areas associated with each incorporated municipality in the county, and to the remaining rural area; and
 - c. Adopt urban growth area boundaries and comprehensive plan land use designations, which are consistent in their sizes and designations, with the official sub-allocation for each UGA and the rural area.
2. To allow for a comprehensive review and assessment of cumulative impacts, the county shall initiate all UGA boundary review proposals as part of a periodic review and update of the plan.
3. To expand the UGA, the county shall demonstrate that necessary urban services can and will be provided within ten (10) years' time. This demonstration must include a need analysis estimating what urban services will be required, both in the expansion area and elsewhere in the county, and estimates as to when such services will be needed. Service providers shall submit written documentation indicating when, how, at what cost, and from which funding sources, service will be provided.
4. An UGA boundary expansion must provide a twenty (20) year supply of vacant and buildable lands within the UGA. The calculation of supply must be based on population growth projections within the UGA, where such projections are consistent with adopted countywide growth targets and regional sub-allocations. If necessary, the county may adjust countywide growth targets and regional sub-allocations; provided, that they are consistent with official OFM forecasts.
5. In evaluating potential changes to a particular UGA boundary, the county shall consider countywide implications for other UGAs and their sub-allocations.
6. The amendment does not include lands that are designated as natural resource (agricultural, forest, mineral resource) unless such lands are de-designated pursuant to Chapter 36.70A RCW and Chapter 365-190 WAC.
7. The county shall exercise its best efforts to coordinate UGA boundary change proposals with the affected city(ies), including the preparation of joint staff recommendations, where possible. Unless waived by the affected city(ies), the county shall give those ~~such~~ city(ies) at least sixty (60) days' notice of the proposal prior to a county hearing thereon.
8. Except as provided for in RCW 36.70A.110(8), the county may not expand a UGA into the one hundred (100) year floodplain of a river segment when the river has a mean annual flow of one thousand (1,000) or more cubic feet per second.
9. Sections 40.560.010(J)(1) through 40.560.010(J)(8) do not apply to:
 - a. Correction of obvious mapping errors involving a small area or few properties;
 - b. An order from a court of competent jurisdiction or as a result of a Growth Management Hearings Board remand.

(Amended: Ord. 2006-09-13; Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2016-06-12; Ord. 2018-01-01)

K. Comprehensive Plan Policy or Text Changes.

1. Action and Required Timing. Plan policy or text changes must be accomplished as actions initiated and approved by the county. These changes may occur as part of the periodic review

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1 update to occur consistent with RCW 36.70A.130, or as part of annual changes to the plan once
2 per calendar year, or, subject to applicable provisions of this chapter, as part of interim or
3 emergency amendments, which may be brought forward at any time.
4

- 5 2. Required Criteria. The county may approve a plan text or policy change only when the
6 amendment complies and is consistent with all the applicable requirements of the GMA and
7 WAC, and the comprehensive plan including without limitation countywide planning policies, the
8 community framework plan, and the capital facilities plan.
9

10 (Amended: Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2018-01-01)

11 L. Arterial Atlas Amendments.

- 12
13
14 1. Action Required. The county shall initiate and may approve all Arterial Atlas amendments. These
15 changes may occur as part of the periodic review update to occur consistent with RCW
16 36.70A.130, or as part of annual changes to the plan once per calendar year, or as part of
17 emergency amendments which may be brought forward at any time, subject to applicable
18 provisions of this chapter.
19
20 2. Required Criteria. Arterial Atlas amendments may be approved only when all of the following are
21 met:
22 a. There is a need for the proposed change;
23 b. The proposed change complies with the GMA;
24 c. The proposed change is consistent with the adopted comprehensive plan, including the land
25 use plan and the rest of the Arterial Atlas;
26 d. The proposed change is consistent with applicable interlocal agreements; and
27 e. The proposed change does not conflict with the adopted Metropolitan Transportation Plan.
28

29 (Amended: Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2018-01-01)

30 M. Other Plan Amendment Categories.

31 The county shall review:
32

- 33
34
35 1. Capital facilities plan and updates at a minimum every four (4) years in Type IV public hearings
36 for those facilities subject to county jurisdiction. In updating capital facilities plans, policies, and
37 procedures, the county must determine that these updates are consistent with applicable
38 provisions of the GMA and WAC, and policies and implementation measures of the
39 comprehensive plan, and in conformance with the purposes and intent of the applicable
40 interjurisdictional agreements.
41
42 2. School capital facility plans and updates at least every four (4) years in Type IV public hearings
43 for those facilities subject to county jurisdiction.
44
45 3. The Clark County Parks, Recreation, and Open Space Plan at least every four (4) years.
46
47
48 4. Changes to the SMP may occur only once a year, following the plan map procedures schedule in
49 Section 40.560.040. Any amendments thereto are limited amendments consistent with WAC
50 173-26-201(1)(c), and must be processed as Type IV applications pursuant to Section
51 40.510.040.
52
53 5. The six (6) year Transportation Improvement Plan annually per RCW 36.81.121 and WAC 136-
54 15-050.
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1 (Amended: Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2010-12-12; Ord. 2016-06-12; Ord. 2016-09-04; Ord.
2 2018-01-01)

3
4 **N. Siting of State and Regional Public Facilities of a Countywide or Statewide Nature.**

5
6 The county shall consider plan amendments to implement the policies of the comprehensive plan
7 regarding proposals for siting essential public facilities such as airports, state educational facilities,
8 and other institutions necessary to support community development, as follows:

- 9
10 1. Government facilities may be established as provided in other land use districts through the
11 procedures specified in the applicable district without plan amendment.
12
13 2. Application for siting of public facilities may be approved if criteria, as noted herein, are met. In
14 cooperation with other jurisdictions, the county shall ensure the following:
15 a. Siting of regional facilities is consistent with all elements of the adopted county
16 comprehensive plan, local city plan and other supporting documents;
17 b. The proposed project complies with all applicable provisions of the comprehensive plan,
18 including countywide planning policies;
19 c. The proposal for siting of a public facility contains interjurisdictional analysis and financial
20 analysis to determine financial impact, and applicable intergovernmental agreement;
21 d. Needed infrastructure is provided;
22 e. Provision is made to mitigate adverse impacts on adjacent land uses;
23 f. The plan for the public facilities development is consistent with the county's development
24 regulations established for protection of critical areas; and
25 g. Development agreements or regulations are established to ensure that urban growth will not
26 occur if located adjacent to non-urban areas.
27

28 (Amended: Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2018-01-01)

29
30 **O. Additional Criteria for Surface Mining Overlay Changes.**

- 31
32 1. The county may designate additional areas with the surface mining overlay only if:
33 a. The designation criteria in the comprehensive plan have been met;
34 b. The quantity and characteristics of the resource, including the size of the deposit, the depth of
35 overburden, the distance to market, the cost of transport, and resource availability in the
36 region, suggest that mining is economically viable; and
37 c. At least sixty percent (60%) of the area within one thousand (1,000) feet of the proposed
38 mineral resource land is characterized by parcels of five (5) acres or larger.
39
40 2. The county may remove ~~of~~ the surface mining overlay only if at least one (1) of the following
41 conditions is met:
42 a. The mineral resources have been depleted;
43 b. There is evidence that the mining of the mineral resource is not economically feasible based
44 on the factors listed in Section 40.560.010(O)(1)(b);
45 c. Environmental or access constraints make it impractical to mine the resource; or
46 d. The area has been brought into an urban growth boundary or adjacent land uses or
47 developments are incompatible with mineral extraction.
48

49 (Added: Ord. 2014-12-06; Ord. 2018-01-01)

50
51 **P. Cumulative Impact.**

52
53 In reviewing all prospective comprehensive plan changes, the county shall analyze and assess the
54 following to the extent possible:
55

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- 1 1. The cumulative impacts of all plan map changes on the overall adopted plan, plan map, and
2 relevant implementing measures, and adopted environmental policies;
- 3
- 4 2. The cumulative land use environmental impacts of all applications on the applicable local
5 geographic area and adopted capital facilities plans; and
- 6
- 7 3. Where adverse impacts are identified, the county may require mitigation. Conditions which assure
8 that identified impacts are adequately mitigated may be proposed and, if determined to be
9 adequate, imposed by the county as a part of the approval action.

10 (Amended: Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2014-12-06; Ord. 2018-01-01)

11
12
13 **Q. Fees.**

14
15 Filing fees for all plan amendments and zone changes are subject to the provisions of Chapter
16 6.110A.010 and Chapter 6.110A.015

17
18
19 (Amended: Ord. 2004-09-02; Ord. 2007-09-13; Ord. 2008-12-15; Ord. 2014-12-06; Ord. 2018-01-01)

20
21 **40.560.020 Changes to Zoning Districts and Code Amendments**

22
23 **A. Procedure, General.** The county may amend zoning districts and the Clark County Unified
24 Development Code (Title 40 CCC) as follows:

- 25
- 26 1. A zone change must occur through the Type III process (rezone) where the proposed zoning is
27 consistent with the current comprehensive plan map designation;
- 28
- 29 2. A comprehensive plan map and zone change must occur through a Type IV process;
- 30
- 31 3. A code amendment must occur through a Type IV process that includes Planning Commission
32 review.

33
34 (Amended: Ord. 2007-09-13)

35
36 **B. Application. Type III Map Amendments.** Type III map amendments must follow the Type III
37 application procedures described in Section 40.510.030.

38
39
40 (Amended: Ord. 2007-09-13)

41
42 **C. Public Hearings.**

- 43
- 44 1. **Type III Map Amendments.** Type III map amendments ~~shall~~ must follow the Type III public hearing
45 procedures described in Section 40.510.030.
- 46
- 47 2. **Type IV Text Amendments.**
 - 48 a. Before taking final action on a proposed amendment, the planning commission shall hold a
49 public hearing thereon. After receipt of the report on the amendment from the planning
50 commission, Council shall hold a public hearing on the amendment. The planning
51 commission shall hold public hearings in accordance with the provisions of Section
52 40.510.040.
 - 53 b. Resubmittal. In a case where a request for an amendment is denied by Council, the request
54 shall not be eligible for resubmittal for one (1) year from the effective date of denial.

55
56 (Amended: Ord. 2007-09-13)

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D. Record of Amendments.

The responsible official shall maintain on file a signed copy of each amendment to the text of the comprehensive plan and code and to the comprehensive plan and zoning maps.

(Amended: Ord. 2007-09-13)

E. Release of Concomitant Rezone Agreements.

- 1. Upon petition by the property owner, a concomitant rezone covenant may be fully or partially released, or modified, by the County Council following a public hearing with notice as prescribed by Section 40.510.040.E and in accordance with the criteria set forth in this section; provided, that if no development has occurred pursuant to a covenant entered into prior to January 1, 1995, such covenant may be fully released and the property subjected to all applicable standards and provisions of the current zoning ordinance by the County Council at a public meeting if it appears that no substantive issues are raised under the following criteria.
- 2. In considering requests for release or modification of concomitant rezone covenants, the review authority shall consider the following:
 - a. In the case of full covenant release, whether development of the site would be consistent with current zoning regulations and comprehensive plan recommendations; and
 - b. In the case of either full or partial covenant release or covenant modification, whether adequate public/private services are available to support development of the site; and
 - c. In the case of either full or partial covenant release or covenant modification, whether the requested action would unreasonably impact development undertaken on nearby properties in reliance upon the covenant commitments; and
 - d. In the case of partial covenant release or covenant modifications, whether future development under current zoning will be consistent with existing and planned development.

(Amended: Ord. 2007-09-13)

F. Approval Criteria.

Zone changes may be approved only when all of the following are met:

- 1. Requested zone change is consistent with the comprehensive plan map designation.
- 2. The requested zone change is consistent with the plan policies and locational criteria and the purpose statement of the zoning district.
- 3. The zone change either:
 - a. Responds to a substantial change in conditions applicable to the area within which the subject property lies;
 - b. Better implements applicable comprehensive plan policies than the current map designation;
 - or
 - c. Corrects an obvious mapping error.
- 4. There are adequate public facilities and services to serve the requested zone change.

(Amended: Ord. 2008-06-02)

40.560.030 Amendments Docket

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A. Purpose.

1. This section is enacted pursuant to RCW 36.70A.470.
2. It is the purpose of this section to:
 - a. Provide a means by which the county will docket identified deficiencies in plans or regulations and ensure their considerations for possible future plan or development regulation amendments; and
 - b. Promote orderly growth and development by providing for suggested improvements in comprehensive plans and development regulations submitted by interested persons, hearing examiners and staff of other agencies.

B. Definitions.

For the purposes of this section, the following definitions apply:

Deficiency	“Deficiency” means the absence of required or potentially desirable contents of a comprehensive plan or development regulation.
Development regulations	“Development regulations” means the control placed on development or land use activities by county legislation.
Docket	“Docket” means a list of suggested changes to the comprehensive plan or development regulations that the responsible official compiles and maintains for consideration by Council.

C. Method of Review.

The responsible official shall maintain a docket that is kept in a manner to ensure that suggested changes will be considered by the county and will be available for review by the public. The following are the procedures for considering all suggested changes:

1. Suggested plan or development regulation amendments may be submitted in writing to the responsible official.
2. Any plan map changes initiated through this section must be processed in accordance with Section 40.560.010 and relevant county code and plan provisions.
3. Requests for map or text amendments to the comprehensive plan or implementing development regulations received by the county prior to September 1st will be considered in conjunction with the adoption of following year’s work program.
4. The compiled list of suggested changes must be:
 - a. Available for public review and comment; and
 - b. Forwarded to affected city and other agencies for comment.
5. Based on the comments and staff evaluation, the responsible official shall at least on an annual basis review the docket, and any comments thereon, and shall recommend in the annual work program items to be included for future plan or development regulation amendments.
6. Placement of an item on the docket does not establish the right to have that matter considered beyond what is provided in this section.

D. Council Determination.

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1
2 Council shall review the recommendation of the responsible official at a work session for the following
3 year's work program and determine which of the proposed amendments and revisions should be:
4

- 5 1. Rejected;
- 6
- 7 2. Included in the following year's work program; or
- 8
- 9 3. Placed on a future work program.
- 10

11 **40.560.040 Annual Review Process.**

12 A. Annual Review Timeline and Submittal Requirements.

- 13
- 14
- 15
- 16 1. Site-specific plan map amendments (annual reviews) requested by property owners pursuant to
17 RCW 36.70A.130(2) are legislative actions, subject to Type IV process Section 40.510.040.
18
- 19 2. An applicant proposing a site-specific plan map amendment shall submit the following:
 - 20 a. Between October 1st and November 30th, a pre-application form containing all of the
21 following information:
 - 22 (1) The pre-application fee pursuant to Chapter 6.110A.015;
 - 23 (2) Application form signed by the owner(s) of record;
 - 24 (3) Description of request;
 - 25 (4) GIS packet;
 - 26 (5) Related or previous permit applications and approvals; and
 - 27 (6) A statement on how the plan/zone change request is consistent with all of the applicable
28 policies and criteria in the comprehensive plan and this chapter.
 - 29 b. Between October 15th and December 31st, county staff and the applicant shall complete pre-
30 application meetings.
 - 31 c. Between January 1st and January 31st, the applicant shall submit an application form
32 containing all of the following, including the information required by Section 40.560.040(D):
 - 33 (1) The applicable comprehensive plan and rezone application fees;
 - 34 (2) SEPA checklist and applicable fee;
 - 35 (3) Copy of deed, real estate contract or earnest money agreement;
 - 36 (4) A full analysis of how the plan/zone change request is consistent with the applicable
37 policies and criteria in the comprehensive plan and this chapter;
 - 38 (5) A market analysis is required for amendments to add or remove land with a commercial
39 designation;
 - 40 (6) A transportation analysis. A transportation analysis may be waived by the Public Works
41 Director as provided by Section 40.350.020(D)(8); and
 - 42 (7) Any additional information the applicant believes is necessary to justify the amendment.
 - 43 d. The responsible official shall determine if the application is fully complete as required by
44 Section 40.560.040(D). Once the application has been determined to be fully complete, the
45 responsible official shall complete the actions in Section 40.560.040(E).
 - 46 e. The above process and timeline is intended as a guideline. Actual processing time may
47 depend upon the number of applications and activity level at the time of formal applications.
 - 48 f. If the applicant has not supplied the required information by March 15th, the responsible
49 official shall inform the property owner and their representative in writing that no further
50 consideration will be given to the request for this annual review cycle.
 - 51 g. The responsible official shall schedule a public hearing before the planning commission
52 subsequent to a fully complete determination.
 - 53 h. The responsible official shall schedule a public hearing before Council and forward to Council
54 the planning commission recommendation.
 - 55 i. At the conclusion of Council hearings on the annual review cycle, Council will adopt a single
56 ordinance disposing of all annual reviews.

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- 1 3. Burden of Proof. The proponent bears the burden of proving compliance with the criteria for plan
2 amendments.
- 3 4. The County may not accept annual review applications for properties within an urban growth
4 boundary which are in the process of being annexed.

5
6 (Amended: Ord. 2007-09-13; Ord. 2007-11-13; Ord. 2017-07-04; Ord. 2018-01-01)

7 B. Pre-Application Review.

8 1. The purposes of pre-application review are:

- 9 a. To acquaint county staff with a sufficient level of detail about the proposed development to
10 enable staff to advise the applicant accordingly;
- 11 b. To acquaint the applicant with the applicable requirements of this code and other law.
12 However, the pre-application conference is not intended to provide an exhaustive review of
13 all the potential issues that a given application could raise. The pre-application review does
14 not prevent the county from applying all relevant laws to the application; and
- 15 c. To provide an opportunity for other agency staff and the public to be acquainted with the
16 proposed application and applicable law. Although members of the public may attend a pre-
17 application conference, it is not a public hearing, and there is no obligation to receive public
18 testimony or evidence.

19 2. Pre-application review is required for all applications for annual review.

20 3. To initiate pre-application review, an applicant shall submit a completed development application 21 form provided by the responsible official for that purpose, the required fee, and all information 22 required by the relevant section(s) of this code. The applicant must provide the required number 23 of copies of all information as determined by the responsible official.

24 4. Information not provided on the development application form must be provided on attachments 25 to the form. The responsible official may modify requirements for pre-application materials and 26 may conduct a pre-application review with less than all of the required information. However, the 27 applicant's failure to provide all of the required information may prevent the responsible official 28 from identifying all concerns and issues or providing the most effective pre-application review. 29 Review for completeness will not be conducted by staff at the time of submittal; completeness is 30 the responsibility of the applicant.

31 5. Within fifteen (15) calendar days after receipt of an application for pre-application review, the 32 responsible official shall provide written notice to the applicant, the applicant's representative, and 33 to other interested agencies and parties, including the school district and neighborhood 34 association in whose area the property in question is situated. The responsible official shall post 35 notice of the pre-application conference to the Clark County planning department webpages. The 36 notice shall state the date, time and location of the pre-application conference, the purposes of 37 pre-application review, and the nature of the conference.

38 6. The responsible official shall coordinate the involvement of agency staff responsible for planning, 39 roads, drainage, parks, schools, and other subjects, as appropriate, in the pre-application review 40 process. Relevant staff shall attend the pre-application conference or shall take other steps to 41 fulfill the purposes of pre-application review.

42 7. The responsible official shall schedule a pre-application conference at least five (5) calendar days 43 after the notice is sent out but not more than twenty-eight (28) calendar days after the responsible 44 official accepts the application for pre-application review. The responsible official shall reschedule 45 the conference and give new notice if the applicant or applicant's representative cannot attend 46 the conference when scheduled.

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- 1 8. Within seven (7) calendar days after the date of the pre-application conference, the responsible
2 official shall provide a written summary of the pre-application review to the applicant, and other
3 parties who sign a register provided for such purpose at the pre-application conference or who
4 otherwise request it in writing. The summary will be e-mailed to the applicant and other parties,
5 unless they request that it be mailed. The written summary must do the following to the extent
6 possible given the information provided by the applicant:
 - 7 a. Summarize the proposed application(s);
 - 8 b. Identify the relevant approval criteria and development standards in this code or other
9 applicable law and exceptions, adjustments or other variations from applicable criteria or
10 standards that may be necessary;
 - 11 c. Evaluate information the applicant offered to comply with the relevant criteria and standards,
12 and identify specific additional information that is needed to respond to the relevant criteria
13 and standards or is recommended to respond to other issues;
 - 14 d. Identify applicable application fees in effect at the time, with a disclaimer that fees may
15 change;
 - 16 e. Identify information relevant to the application that may be in the possession of the county or
17 other agencies of which the county is aware, such as:
 - 18 (1) Comprehensive plan map designation and zoning on and in the vicinity of the property
19 subject to the application;
 - 20 (2) Physical development limitations, such as steep or unstable slopes, wetlands, well head
21 protection areas, water bodies, or special flood hazard areas, that exist on and in the
22 vicinity of the property subject to the application;
 - 23 (3) Other applications that have been approved or are being considered for land in the
24 vicinity of the property subject to the proposed application that may affect or be affected
25 by the proposed application.

26 C. Review for Counter Complete Status.

- 27 1. Before accepting an application for review for fully complete status, and unless otherwise
28 expressly provided by code, the responsible official shall determine the application is counter
29 complete.
30
- 31 2. The responsible official shall decide whether an application is counter complete when the
32 application is accepted, typically “over the counter.”
33
- 34 3. An application is counter complete if the responsible official finds that the application purports and
35 appears to include the information required by Section 40.560.040(D)(1). Staff shall make no
36 effort to evaluate the substantive adequacy of the information in the application in the counter
37 complete review process. The responsible official may waive a requirement to provide certain
38 information upon determining that the information is not necessary.
39
- 40 4. If the responsible official decides the application is counter complete, then the application is
41 accepted for review for fully complete status.
42
- 43 5. If the responsible official decides the application is not counter complete, then the responsible
44 official shall immediately reject and return the application and identify what is needed to make the
45 application counter complete.
46
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49 D. Review for Fully Complete Status.

- 50 1. An application is fully complete if it includes all the required materials specified in the submittal
51 requirements and in the pre-application conference report. In addition to the submittal
52 requirements in the applicable code sections, to be considered fully complete, the application
53 must also include the following:
54
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- 1 a. If the property owner is not filing the application, the property owner shall sign a statement
2 authorizing the applicant to file the application on their behalf;
- 3 b. A signed statement from the applicant certifying that the application has been made with the
4 consent of the lawful property owner(s) and that all information submitted with the application
5 is complete and correct. False statements, errors, and/or omissions may be sufficient cause
6 for denial of the request. Submittal of the application gives consent to the county to enter the
7 property(ies) subject to the application;
- 8 c. The signature of the property owner or the property owner's authorized representative;
- 9 d. A written narrative that addresses the following:
10 (1) How the application meets or exceeds each of the applicable approval criteria and
11 standards; and
12 (2) How the issues identified in the pre-application conference have been addressed, and
13 generally, how services will be provided to the site;
- 14 e. A copy of the Developer's GIS Packet obtained for the pre-application submittal;
- 15 f. A legal description supplied by the Clark County Survey Records Division, a title company,
16 surveyor licensed in the state of Washington, or other party approved by the responsible
17 official, and a current County Assessor map(s) showing the property(ies) subject to the
18 application;
- 19 g. A copy of the pre-application conference summary, and information required by the pre-
20 application conference summary;
- 21 h. The applicable fee(s) adopted by the County Council for the application(s) in question;
- 22 i. An applicable SEPA document, typewritten or in ink and signed.
- 23
- 24 2. An application must include all of the information listed as application requirements in the relevant
25 sections of this code. The responsible official shall determine the fully complete status of an
26 application, including any required engineering, traffic or other studies, based on the criteria for
27 completeness and methodology set forth in this code. Staff shall evaluate the substantive
28 adequacy of the information in the application.
- 29
- 30
- 31 3. If the responsible official decides an application is fully complete, then the responsible official
32 shall, within fourteen (14) calendar days of making this determination:
33 a. Send to the applicant a written notice of receipt of a complete application which
34 acknowledges acceptance, lists the name and telephone number of a contact person on
35 county staff, and describes the expected review schedule; and
36 b. Forward the application to the relevant staff for processing;
- 37
- 38 4. A fully complete determination does not preclude the county from requesting additional
39 information, studies or changes to submitted information or plans.
- 40
- 41 5. If the responsible official decides an application is not fully complete, then the responsible official
42 shall, within fourteen (14) calendars days of making this determination:
43 a. send the applicant a written statement indicating that the application is incomplete based on a
44 lack of information and listing what is required to make the application fully complete. The
45 statement must specify that the required missing information must be provided within fourteen
46 (14) calendar days of the date of the letter.
- 47 b. If the applicant resubmits the application for a second review for fully complete, the responsible
48 official shall notify the applicant within seven (7) calendar days from the date it was resubmitted,
49 whether it is deemed Fully Complete or whether it is incomplete. If complete, the responsible
50 official shall forward the application to the relevant staff for processing;
- 51 c. If the responsible official decides the application is still incomplete, the responsible official shall
52 send the applicant a written statement indicating that the application is incomplete based on a
53 lack of information and listing what is required to make the application fully complete. The
54 required missing information must be provided within seven (7) calendar days of that written
55 statement.

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- 1 d. If the applicant resubmits the application for a third review for fully complete, the responsible
2 official will notify the applicant within seven (7) calendar days from the date it was resubmitted,
3 whether it is deemed Fully Complete or whether it is incomplete.
- 4 e. If the responsible official decides the application is fully complete, the responsible official shall
5 forward the application to the relevant staff for processing. If the responsible official decides the
6 application is not fully complete, the responsible official shall reject and return the application and
7 submitted fees.
8
9
- 10 E. Once an application has been determined to be fully complete, staff shall include the following in its
11 review:
12
 - 13 1. Completion of county SEPA official determination;
 - 14
 - 15 2. Circulation and publication of SEPA determinations to the applicant, affected jurisdiction(s),
16 neighborhood associations, and agencies; and
 - 17
 - 18 3. Preparation of a single staff report and recommendation based on an assessment of impacts of
19 plan change requests, and any other plan changes initiated by the county.
20
 - 21 4. Schedule a public hearing before the planning commission.
22
- 23 G. After the planning commission hearing, the responsible official shall schedule a public hearing before
24 Council and forward to Council the planning commission recommendation.
25
- 26 G. After the public hearing by Council, Council shall adopt a single ordinance disposing of all annual
27 reviews and dockets.
28