



**CITY OF EDGEWOOD
PLANNING COMMISSION MEETING AGENDA**

Mon. June 5, 2017 – 6:00 p.m. • Edgewood City Hall – 2224 104th Ave. East

I. CALL TO ORDER:

II. SUMMARY APPROVAL:

None.

III. PUBLIC HEARING(S):

Comprehensive Plan and Development Regulation Amendments to EMC Chapter 18.60.

IV. STAFF UPDATES:

V. PUBLIC COMMENTS:

Note: This portion of the agenda is reserved for the public to comment on items not on the agenda. As a reminder, the Planning Commission may invite additional public comment on agenda items noted for discussion later in the meeting, in the order they are reviewed.

VI. NEW BUSINESS:

Planning Commission Position Decisions (John, Todd and Sig (Andy already emailed about continuing on the Commission)). (*Action Item*)
PWSF Code Update (*Discussion Item*)

VII. OLD BUSINESS:

Comprehensive Plan and Development Regulation Code Update (*Action Item*)

VIII. COMMISSIONER COMMENTS:

- A. Chairman Report
- B. Commissioner Comments

IX. NEXT MEETING: June 19, 2017, 6:00 p.m.

X. ADJOURN



**CITY OF EDGEWOOD
STAFF REPORT
PLANNING COMMISSION AGENDA ITEM: **Public Hearing****

Date: June 5, 2017

Title: Comprehensive Plan and Development Regulation Code Update to EMC 18.60

Attachments: DRAFT Ordinance dated April 17, 2017

Submitted By: Kevin Stender, Community Development Director

Approved For Agenda By: Daryl Eiding, Mayor

Discussion: The City continues to update our codes and regulations to be consistent with newer State and Federal laws. At the recommendation of Legal Counsel, the City has undertaken the update of the regulations as shown in the DRAFT ordinance presented with this Public Hearing for EMC 18.60, regarding Legislative Actions. Legislative Actions primarily include Comprehensive Plan and Land Use Map amendments as well Development Regulation updates. The code updates clarify and simplify the process for undertaking these actions.

Recommendation: Review the information provided on the proposed amendments, listen and consider public input, and make a formal Planning Commission recommendation later in the meeting.

Fiscal Impact: None known.

CHAPTER ~~2-118.60~~
AMENDMENTS TO THE
COMPREHENSIVE PLAN AND DEVELOPMENT
REGULATIONS

Sections:

- ~~2-118.60.010~~ Purpose and Types of Amendments.**
- ~~2-118.60.020~~ Administration of Legislative Amendments to Development Regulations.**
- ~~2-118.60.030~~ Procedure for Amendments to Development Regulations.**
- ~~2-118.60.040~~ Submission of Applications for Amendments to Development Regulations.**
- ~~2-118.60.050~~ Requirements for a Complete Application.**
- ~~2-118.60.060~~ SEPA Compliance and Transmittal to State.**
- ~~2-118.60.070~~ Public Notice.**
- ~~2-118.60.080~~ Planning Commission Public Hearing.**
- ~~2-118.60.090~~ City Council Action.**
- ~~2-118.60.100~~ Final Decision, Transmittal to State and Appeals.**
- ~~2-118.60.110~~ Appeal of Amendments to Development Regulations.**
- ~~2-118.60.120~~ Administration of Annual Comprehensive Plan Amendments.**
- ~~2-118.60.130~~ Submission of Applications.**
- ~~2-118.60.140~~ Preliminary Docket.**
- ~~2-118.60.150~~ Optional City Council/Planning Commission Workshop on Preliminary Docket.**
- ~~2-118.60.160~~ Planning Commission Hearing on Preliminary Docket.**
- ~~2-118.60.170~~ City Council Decision – Adoption of Final Docket.**
- ~~2-118.60.180~~ Final Docket – Contents.**
- ~~2-118.60.190~~ Effect of Final Docket.**
- ~~2-118.60.200~~ SEPA on Final Docket.**
- ~~2-118.60.210~~ Planning Commission Public Hearing on Final Docket.**
- ~~2-118.60.220~~ Evaluation Criteria for Proposed Amendments.**
- ~~2-118.60.230~~ City Council Action.**
- ~~2-118.60.240~~ Final Decision, Transmittal to State and Appeals.**
- ~~2-118.60.250~~ Planning Commission Periodic Assessment – Recommendations on Amendments.**

~~2-118.60.010~~ Purpose and Types of Amendments.

A. Purpose. The purpose of this chapter is to establish procedures for amendment of the City’s Comprehensive Plan map/text and the Development Regulations. In addition, this chapter will describe the City’s Public Participation process, which is intended to solicit comments and suggested amendments to the City’s Comprehensive Plan and Development Regulations for consideration. The Public Participation process described herein is supplemented by a booklet¹ that provides additional detail.

¹ Attached hereto as Exhibit A.

B. Comprehensive Land Use Plan and Development Regulations. The Comprehensive Land Use Plan is defined as the generalized, coordinated land use policy statement of the City, and the accompanying map, adopted under the Growth Management Act (chapter 36.70A RCW).² The Development Regulations are the controls placed on development or land use activities by the City, including, but not limited to, the City’s codes on zoning, critical areas, official controls, planned unit developments, subdivisions, binding site plans and the Shoreline Master Program.³

C. Types of Amendments.⁴ The applications that will be processed under this Chapter as legislative amendments are Comprehensive Plan Amendments to the Comprehensive Plan Map or Policies and Development Regulation Amendments (to the text of the Development Regulations) which do not implement the existing Comprehensive Plan.⁵

2.118.60.020 Administration of Legislative Amendments to Development Regulations.

The Director is authorized to administer the provisions of this Chapter. The Planning Commission shall have the authority to hold the public hearing on any proposed legislative amendments to the development regulations, and to provide a recommendation to the City Council. The City Council shall consider the Planning Commission’s recommendation during a public meeting or a public hearing and shall make a final decision.⁶

2.118.60.030 Procedure for Amendments to Development Regulations. The following steps shall be followed in the processing of applications for Amendments to Development Regulations. *[Hyperlink will be set to each procedure so the reader will be directed to the appropriate section of the code.]*

- A. ~~2.118.60.050.---~~ Director’s Determination that the Application is Complete;⁷
- B. ~~2.118.60.060.---~~ SEPA;
- C. ~~2.1.---~~18.60.080 Notice of Public Hearing;
- D. ~~2.118.60.210.---~~ Public Hearing before the Planning Commission;
- F. ~~2.1.---~~18.60.230: City Council considers application;
- G. ~~18.60.2402.1.---~~ Final Decision, transmittal to state;
- H. ~~2.1.---~~18.60.240 Appeal to Growth Management Hearings Board (if any).

2.118.60.040 Submission of Applications for Amendments to Development Regulations (Who May Submit and When).⁸

² RCW 36.70A.030(4).

³ RCW 36.70A.030(7).

⁴ There is no bright line rule to distinguish between quasi-judicial and legislative rezones. However, there are general rules established in case law to be used in individual situations. *See, Raynes v. City of Leavenworth*, 118 Wash.2d 237, 248, 821 P2d 1204 (1992).

⁵ *Kittitas County v. Kittitas County Conservation*, 176 Wn.App. 38, 308 P.3d 745 (2013) (a site specific rezone is a project permit approval appealable under LUPA if it is authorized by a then-existing comprehensive plan. A site specific rezone is an amendment to a development regulation under GMA if it implements a comprehensive plan amendment).

⁶ *See*, RCW 36.70A.035(2)(a).

⁷ This is an informal process because an application for an amendment to a development regulation is not for a “project permit,” and therefore is not subject to RCW 36.70B.070 which describes the process for determining whether a project permit is complete.

A. Who May Submit Applications. Any interested person,⁹ including citizens, Hearing Examiners, staff of other agencies, Planning Commission and City Council members, may submit an application for an amendment of a development regulation.

B. When Applications May Be Submitted. The text of the City’s adopted development regulations may be amended at any time, provided that the amendment is consistent with the City’s Comprehensive Plan and Land Use Map. When inconsistent with the Comprehensive Plan and Land Use Map, the amendment shall be processed concurrent with any necessary Plan amendments using the process and timelines for Comprehensive Plan Amendments in Sections [2-18.60.120](#) through [.240](#) of this chapter. Applications that do not include the information required in Section [2-18.60.050](#) shall not be processed.

[2-18.60.050](#) Requirements for a Complete Application. The following materials shall be submitted to the City for a complete application for a Development Regulation Amendment:

- A. An application form provided by the City;
- B. Name, address, phone number and e-mail of the applicant and if the applicant is not the property owner, proof of the property owner’s consent to the submission of the application;
- C. Name, address, phone number and e-mail of the owner of the property identified in the application (if applicable);
- D. A legal description of the property, if applicable;
- E. A description of the proposed Amendment and any associated development proposals, if applicable. Formal site-specific or project-related amendments shall include plans, information and/or studies that accurately depict existing and proposed uses(s) and improvements. Proposed site-specific or project related Amendments that do not specify propose use(s) and potential impacts will be assumed to have maximum impact to the environment, public facilities and services;
- F. Proposed amendatory language, preferably shown in “bill” format (*i.e.*, new language underlined; language proposed for deletion in strikeouts);
- G. An explanation of the rationale for the proposed Amendment;
- H. An explanation of how the proposed Amendment and associated development proposal(s) if any, conform to, conflict with, or relate to the criteria set forth in Section [18.602-1.220](#);
- I. A completed SEPA checklist including the supplement sheet for nonproject actions (if applicable);
- J. Application fee as set forth in the City’s resolution adopted for this purpose; and
- K. Any additional information reasonably deemed necessary by the Planning Director to evaluate the proposed amendment.

[2-18.60.060](#) SEPA Compliance and Transmittal to State. If an application for an Amendment to the Development Regulations is submitted outside of the annual Comprehensive

⁸ Processing of legislative approvals is not subject to “project permit processing,” pursuant to RCW 36.70B.020(4), definition of “project permit application,” which excludes legislative action.

⁹ See, RCW 36.70A.470(2).

Plan Amendment process, SEPA shall be performed on the application as set forth in chapter ____ (City’s SEPA ordinance). If applicable, the City shall notify the State Department of Commerce of its intent to adopt the proposed amendment(s) to the Development Regulations at least sixty (60) days prior to final adoption.¹⁰

[2-18.60.070](#) Public Notice.¹¹

A. Notice of any public hearing on an application for an Amendment to a Development Regulation submitted outside of the annual Comprehensive Plan Amendment process set forth in Sections [2-18.60.120](#) through [.240](#) of this chapter, shall be given by one publication in the official newspaper of the City at least 10 days prior to the date of the hearing and by posting a copy of the notice of public hearing in City Hall and on the City’s website. Additional notice may be required by state or local law (*e.g.*, statutory notice requirements for amendments to the Shoreline Master Program), or additional notice may be provided as deemed appropriate by the Director.

B. The public notice shall include the following:

1. The purpose(s) of the Amendment;
2. The deadline for submitting comments on the Amendment;
3. A tentative hearing schedule; continued hearings may be held by the

Planning Commission but no additional notices need be published.

[2-18.60.080](#) Planning Commission Public Hearing. The Planning Commission shall hold a public hearing on an application for a Amendments to a Development Regulation and shall make a recommendation to the City Council, using the criteria set forth in Section [2-18.60.220](#), as applicable. There is no limit on the number of public hearings or continuation of public hearings that the Commission (or City Council) may hold on a proposed Amendment.¹²

[2-18.60.090](#) City Council Action. The City Council shall consider the proposed Amendment to the Development Regulations and the Planning Commission’s recommendation at a regularly scheduled meeting. The City Council shall also apply the criteria set forth in Section [2-18.60.220](#), as applicable, in order to make a final decision.

1. If the City Council concludes that no change in the recommendation of the Planning Commission is necessary, the City Council may make a final determination on the proposed amendment(s) without holding another public hearing, and make a final decision.

2. If the City Council concludes that a change in the recommendation of the Planning Commission is necessary, the City Council shall consider whether another opportunity

¹⁰ RCW 36.70A.106(1).

¹¹ See, *Holbrook v. Clark County*, 112 Wn. App. 354, 49 P.3d 142 (2002) (Due process did not require that county give individual notice to property owner whose property was subject to an area-wide, legislative redesignation under the GMA comprehensive plan amendment process).

¹² Legislative actions are not subject to the project permit processing limit of no more than one open record hearing and one closed record appeal in RCW 36.70B.060(6).

for public review and comment is needed under RCW 36.70A.035(2)(a) and if so, it shall hold another public hearing before making a final decision.

2-118.60.100 Final Decision, Transmittal to State and Appeals. If the City Council decides not to adopt the proposed Amendment to the Development Regulations, it shall pass a resolution with the associated findings and conclusions to support its decision. If the City Council decides to adopt the proposed Amendment to the Development Regulations, it shall adopt an ordinance with the associated findings and conclusions to support its decision. A copy of this ordinance shall be sent to the State Department of Commerce within ten days after final adoption.¹³

2-118.60.110 Appeal of Legislative Amendments to Development Regulations. Appeals of the City’s final decision may be filed with the Growth Management Hearings Board, pursuant to RCW 36.70A.290.

2-118.60.120 Administration of Annual Comprehensive Plan Amendments.

A. Legislative Amendments to the Comprehensive Plan. The Director is authorized to administer the provisions of this Chapter. The Planning Commission shall have the authority to hold the public hearing on any proposed Comprehensive Plan amendment(s), and to provide a recommendation to the City Council. The City Council shall consider the Planning Commission’s recommendation during a public meeting or a public hearing and make a final decision.

B. Development Agreement. A Legislative Amendment to the Comprehensive Plan that is site-specific may be approved subject to the execution, delivery and recording of a Development Agreement between the City Council and the property owner of the subject property (or the legal owner of a beneficial interest in the subject property). The Development Agreement may impose conditions to address the criteria set forth in Section [2-118.60.220](#), and approval of the Comprehensive Plan Amendment shall be conditioned upon performance or compliance with the terms and conditions of the Development Agreement. The City may revoke (or take other action allowed by law) a Comprehensive Plan Amendment executed with a Development Agreement for failure to comply with the Development Agreement. An applicant proposing a Comprehensive Plan Amendment with a Development Agreement shall submit the proposed Development Agreement with the application materials described in Section [2-118.60.050](#). The City will evaluate the proposed Development Agreement together with the proposed Comprehensive Plan Amendment (*see* Chapter ___ on Development Agreements), to determine whether the Amendment should be approved.

2-118.60.130 Submission of Applications (Who May Submit and When).

A. Who May Submit Applications for Amendments Related to a Site-Specific Development Proposals. Proponents of land development projects and/or property owner(s) or their authorized representative(s), may file an application for an Amendment to the Comprehensive Plan relating to a site-specific proposal. The complete application shall consist of the materials described in Section 2.1.050. The application filing fee as set forth in the City’s

¹³ RCW 36.70A.106(2).

fee resolution shall accompany the application, which shall also require the applicant to pay for the applicant’s portion of the SEPA review attributable to the application.

B. Who May Suggest Amendments. Any interested person,¹⁴ including citizens, Hearing Examiners, staff of other agencies, Planning Commission and City Council members, may suggest an Amendment to the Comprehensive Plan. Generally, suggested Amendments should be limited to proposals that broadly apply to the goals, policies and implementation strategies of the Comprehensive Plan rather than amendments designed to address site-specific issues of limited applicability. If an application is not submitted for the suggested Amendment by an interested person, the Planning Director shall include the suggested Amendment on a Docket that is maintained each year for this purpose. The process described in Sections ~~2-18.60~~.160 through .170 of this chapter shall resolve the question whether such suggested Amendments will be considered during the annual review process.

C. Amendments Considered Once a Year. Applications for Amendments to the City’s Comprehensive Plan may not be considered more frequently than once every year, except: (1) under the circumstances described in RCW 36.70A.130(2)(i) through (v); (2) when needed to resolve an emergency condition or situation that involves public health, safety or welfare and when adherence to the Amendment process set forth in this chapter would be detrimental to the public health, safety and welfare. Situations involving official legal or administrative action affecting the City will be reviewed by the City Council with advice from the City Attorney to determine whether an emergency exists warranting an emergency Comprehensive Plan Amendment. Except as otherwise provided in RCW 36.70A.130(2)(a), all Comprehensive Plan Amendments shall be considered concurrently so that the cumulative effect of the various proposals may be ascertained.

D. Deadline for Application Submittal. All applications for Comprehensive Plan Amendments shall be submitted to the Planning Director by March 1st of the current calendar year (or be included in the Director’s docket of suggested amendments by this date) in order to be considered during that year’s amendment process; except that City-sponsored proposals to amend the Capital Facilities Element of the Comprehensive Plan may be accepted later than other proposed amendments because of their relationship to the City’s annual budget process. Applications that do not include the information required under subsection ~~2-18.60~~.150 for a complete application, or which are not received by the deadline set forth in this subsection, shall not be processed.

~~2-18.60~~.140 Preliminary Docket.

A. Contents. A preliminary docket shall be maintained by the Planning Director, which shall consist of the following:

1. All applications submitted before the March 1st deadline to amend the Comprehensive Plan;
2. All amendments suggested during the year by citizens, the Planning Commission, City Council, staff, departments or other agencies.

¹⁴ See, RCW 36.70A.470(2).

B. Planning Director Responsibilities. After compiling the preliminary docket, the Planning Director shall review the suggested amendments and prepare a report concerning which suggested amendments that the Planning Director believes should be placed on the final docket for consideration during the annual amendment process. In addition to addressing the need, urgency and appropriateness of each suggested amendment, the staff report shall include, but not be limited to, a consideration of the following:

1. The availability of sufficient planning staff to substantively review the suggested amendments and manage the public review process with available staff; and
2. Anticipated planning costs and budget for processing the suggested amendments.

2-18.60.150 Optional City Council/Planning Commission Workshop on Preliminary Docket. The City Council and Planning Commission may, but are not required to, hold a noticed joint workshop meeting to gather information regarding the items on the preliminary docket and the administrator’s report and recommendation. If held, notice of the joint workshop meeting shall be given by publication in the City’s official newspaper at least one time, ten (10) days prior to the date of the meeting and by posting a copy of the meeting notice at City Hall and the City’s website, which shall include a statement of the purpose of the joint workshop.

2-18.60.160 Planning Commission Hearing on Preliminary Docket. The Planning Commission shall hold a noticed public hearing to accept public comment regarding the suggested amendments on the preliminary docket. Following the hearing, the Planning Commission shall prepare a report and recommendation identifying those suggested amendments that it is recommending for consideration by the City Council during the annual amendment process. The Planning Commission’s recommendation shall be based upon the perceived need, urgency and appropriateness of each suggested amendment. The Planning Commission’s report and recommendation shall also include those proposed amendments resulting from its periodic assessment set forth in Section 2-18.60.250, as applicable. Notice of the Planning Commission’s hearing shall be given as set forth in Section 2-18.60.070.

2-18.60.170 City Council Decision – Adoption of Final Docket. The City Council shall review and consider the Planning Commission’s report and recommended final docket at a regularly scheduled Council meeting. The City Council may adopt the Planning Commission’s recommended final docket without a public hearing; however, in the event that a majority of the City Council decides to add or subtract suggested amendments, it shall first hold a public hearing, noticed as set forth in Section 18.602-1.070.

2-18.60.180 Final Docket -- Contents. The final docket adopted by the City Council shall include the following:

1. All applications for Comprehensive Plan Amendments for site-specific amendments timely submitted under Section 2-18.60.130; and
2. Any proposals for suggested amendments which the City Council elects to consider during the annual amendment process.

~~2.118.60.190~~ Effect of Final Docket. The City Council’s decision to adopt the final docket does not constitute a decision or recommendation that the substance of any site-specific amendment or suggested amendment be adopted. No additional amendment proposals shall be considered by the City after adoption of the final docket for that year, except for those identified in RCW 36.70A.130(2)(i) through (v), and City-sponsored proposals to amend the capital facilities element of the Comprehensive Plan as set forth in RCW 36.70A.130(2)(a)(iv).

~~2.118.60.200~~ SEPA on Final Docket. The final docket as adopted by the City Council shall first be reviewed and assessed by the Planning Director, who shall prepare a staff report and recommendation on each proposed amendment. The Planning Director shall also be responsible for conducting SEPA review of all items on the final docket, as required by [\[reference City’s SEPA Chapter here.\]](#) As appropriate, the Planning Director shall solicit comments regarding the proposed amendments from the public and/or government agencies. The Planning Director shall also be responsible for providing notice and opportunity for public comment as deemed appropriate, given the nature of the proposed amendments and consistent with RCW 36.70A.140 and SEPA (chapter 43.21C RCW and chapter 197-11 WAC). Issuance of the SEPA threshold decision on the proposed Comprehensive Plan Amendments shall be coordinated such that if an appeal of the SEPA threshold decision is filed, the appeal can be considered [\[consult your SEPA chapter for the identity of the decision_maker on the appeal.\]](#)¹⁵

~~2.118.60.210~~ Planning Commission Public Hearing on Final Docket.

A. All proposed amendments on the final docket shall be reviewed and assessed by the Planning Commission, which shall make a recommendation to the City Council after holding at least one public hearing.

B. After the public hearing(s), the Planning Commission shall develop findings and conclusions to support its recommendation to the City Council that the proposed amendment(s) be denied, approved, or approved with conditions or modifications.

~~2.118.60.220~~ Evaluation Criteria for Proposed Amendments. The Planning Commission shall review the proposed Amendments to the Comprehensive Plan and Development Regulations under the following criteria to develop findings and conclusions to support a recommendation:

A. All Amendments. All of the Comprehensive Plan Amendments shall be reviewed under the following criteria:

1. Whether the proposed amendment(s) conform to the Growth Management Act (chapter 36.70A RCW);¹⁶
2. Whether the proposed amendment(s) are consistent with and implement the City’s Comprehensive Plan, including the goals, policies and implementation strategies of the various elements of the Plan;

¹⁵ There must be an open record public hearing on the SEPA appeal. Does the City’s SEPA ordinance require that the City Council handle the SEPA appeal? There can only be one SEPA appeal. So, if the City Council wants to handle the SEPA appeal, this must be addressed.

¹⁶ RCW 36.70A.130(1)(d).

3. Whether circumstances related to the proposed amendment(s) and/or the area in which it is located have substantially changed since the adoption of the City’s Comprehensive Plan;

4. Whether the assumptions upon which the City’s Comprehensive Plan is based are no longer valid, or whether new information is available which was not considered during the adoption process or any annual amendments of the City’s Comprehensive Plan; and

5. Whether the proposed amendment(s) reflects current, widely held values of the residents of the City.

B. Amendments for Site-Specific Proposals. In addition to the above, any proposal for a site-specific development or amendment shall be reviewed under the following criteria:

1. Whether the proposed site-specific amendment(s) meets concurrency requirements for transportation and does not adversely affect adopted level of service standards for other public facilities and services (*e.g.*, police, fire and emergency medical services, parks, fire flow and general governmental services);

2. Any proposed site-specific amendment(s) will not result in probable significant adverse impacts to the City’s transportation network, capital facilities, utilities, parks and environmental features that cannot be mitigated, and will not place uncompensated burdens upon existing or planned service capabilities;

3. In the case of a site-specific amendment(s) to the Comprehensive Plan’s Land Use Map, that the subject parcels are physically suitable for the requested land use designation and the anticipated land use development, including, but not limited to, the following: (i) access; (ii) provision of utilities; and (iii) compatibility with existing and planned surrounding land uses;

4. The proposed site-specific amendment(s) will not create pressure to change the land use designation of other properties, unless the change of land use designation for other properties is in the long-term best interests of the City as a whole;

5. The proposed site specific amendment(s) does not materially affect the land use and population growth projections that are the bases of the Comprehensive Plan;

6. If within an incorporated urban growth area (UGA), the proposed site-specific amendment(s) does not materially affect the adequacy or availability of urban facilities and services to the immediate area and the overall UGA;

7. The proposed amendment(s) is consistent with any applicable County-Wide Policies for the City and any other applicable inter-jurisdictional policies or agreements, and any other local, state or federal laws.

2.1.230 City Council Action. The City Council shall consider the proposed Comprehensive Plan Amendments and the Planning Commission’s recommendation at a regularly scheduled meeting. The City Council shall also apply the criteria set forth in Section 2.1.220, as applicable, in order to make a final decision.

1. If the City Council concludes that no change in the recommendation of the Planning Commission is necessary, the City Council may make a final determination on the proposed amendment(s) without holding another public hearing, and make a final decision.

2. If the City Council concludes that a change in the recommendation of the Planning Commission is necessary, the City Council shall consider whether another opportunity for public review and comment is needed under RCW 36.70A.035(2)(a) and if so, it shall hold another public hearing before making a final decision.

2-118.60.240 Final Decision, Transmittal to State and Appeals. The Council’s final action on the docket must be taken by the second regular Council meeting in December of each year. If the City Council decides not to adopt the proposed Comprehensive Plan Amendments, it shall pass a resolution with the associated findings and conclusions to support its decision. If the City Council decides to adopt the proposed development regulations, it shall adopt an ordinance with the associated findings and conclusions to support its decision. A copy of this ordinance shall be sent to the State Department of Commerce within ten days after final adoption.¹⁷ All appeals to the adoption of an amendment(s) to the City’s Comprehensive Plan or development regulations shall be filed with the Growth Management Hearings Board in accordance with the provisions of RCW 36.70A.290 and Chapter 36.70A RCW.

2-118.60.250 Planning Commission Periodic Assessment – Recommendations on Amendments.

A. Timelines. The Planning Commission shall review, and if necessary, recommend revisions to the Comprehensive Plan during a periodic assessment performed in accordance with RCW 36.70A.130. The Planning Commission shall complete its assessment of the Comprehensive Plan by November 1st of the year prior to the assessment. Any amendments recommended by a majority vote of the Planning Commission shall be forwarded to the Planning Director by March 1st of the year in which the periodic assessment is conducted. The Planning Director shall place all such recommended amendments on the preliminary docket to be considered during the final docket selection process set forth in Sections 2-118.60.140 through .170 of this chapter.

B. Criteria Governing Planning Commission Assessment. The Planning Commission’s periodic assessment and recommendation shall be based upon, but shall not be limited to, an inquiry into the following growth management indicators:

1. Whether growth and development as envisioned in the Comprehensive Plan is occurring faster or slower than anticipated, or is failing to materialize;
2. Whether the capacity of the City to provide adequate services has diminished or increased;
3. Whether sufficient urban land is designated and zoned to meet projected demand and need;
4. Whether any of the assumptions upon which the plan is based are no longer found to be valid;
5. Whether changes in county-wide attitudes necessitate amendments to the goals of the plan and the basic values embodied within the Comprehensive Plan;
6. Whether changes in circumstances dictate a need for amendments; and

¹⁷ RCW 36.70A.106(2).

7. Whether inconsistencies exist between the Comprehensive Plan and the GMA or the Comprehensive Plan and any County-wide Planning Policies for the City.



CITY OF EDGEWOOD

STAFF REPORT

**PLANNING COMMISSION AGENDA ITEM: Planning Commission
Terms**

Date: June 5, 2017

Title: Planning Commission Terms

Attachments: Planning Commission Roster

Submitted By: Kevin Stender, Community Development Director

Approved For Agenda By: Daryl Eiding, Mayor

Discussion: The Planning Commission is a two-year commitment and 4 of the 7 commissioner's terms are up. This item is on the agenda to discuss those commissioners interest in committing to an additional term on the Planning Commission.

Recommendation: N/A

Fiscal Impact: None known.



City of Edgewood,
Washington

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MEMORANDUM

TO: Planning Commission

FROM: Senior Planner, Kirk Rappe

DATE: June 5, 2017

SUBJECT: PERSONAL WIRELESS SERVICE FACILITIES CODE

Background:

Recently City Staff received a proposal to replace antennas on two locations in Edgewood on May 3rd. The applicant, out of California, pointed out that the City's code may be out of date with respect to Federal laws governing the placement of cellphone antennas and towers.

The City's Personal Wireless Service Facility (PWSF) code is EMC Section 18.100.110. Currently, the code limits cellphone towers and antennas to Commercial, MUR, Business Park, and Town Center zones along the Meridian corridor within 300 feet of Meridian/SR-161, Industrial zoned land, and Public zoned land (within 600 feet of Meridian).

An application, per EMC 18.100.110, requires submission of site plans, structure elevations, antenna coverage area map, and other items for a Conditional Use Permit for wireless service facilities proposed in Edgewood. Currently, the code states that any wireless service facility requires a Conditional Use Permit (CUP) and the CUP's expire after 5 years. A CUP requires public notice and a hearing before the City's hearing examiner – a process that takes at least 15 days.

The company that applied for replacement antennas said that the Federal Communications Commission (FCC) made a ruling in 2015 that prevents cities and counties from regulating the placement and review of PWSF applications. The FCC ruling places authority for regulation of cell towers and cell antennas on public or private property in the hands of the FCC with only a few exceptions for state and local jurisdictions.

Federal Law and FCC Siting Order

The City's code became out of date when the FCC issued a report clarifying portions of the Spectrum Act of 2012. The Spectrum Act, part of the Middle Class Tax Relief and Job Creation Act, was intended to advance broadband wireless service primarily for public safety and

commercial purposes (and create a broadband emergency communications network as recommended by the 9/11 Commission). However, one section, Section 6409(a) states:

“A State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.”

Though it was passed in 2012, this wording in section 6409(a) was ambiguous enough to require later clarification. What is an “eligible facility”? What constitutes “modification”? What is a “substantial change”?

The FCC released a Wireless Siting Order in January 2015 that defined various terms and clarified the meaning of section 6409(a). It is this 2015 order that restricts how local and state governments can regulate personal wireless service facilities.

Impact on City Regulation of Wireless Facilities

City Staff, along with the City Attorney, reviewed the FCC documents as well as a publication by a law firm in Washington DC titled “Cell Tower Zoning and Placement: Navigating Recent FCC Changes.” The changes imposed cover three topic areas of cell tower placement: 1) What facilities are covered, 2) What a substantial change is to an existing facility, and 3) Review processes.

Facilities Covered by 6409(a)

The siting order (FCC, *Wireless Siting Order*, January 2015) defines several facility types covered by 6409(a) such as towers, base stations, and colocation of equipment. It also defined an “eligible facilities request”:

- Eligible Facilities Request means any structural enhancement or modification of an existing wireless tower or base station that involves replacement, removal or colocation of transmission equipment. Base stations are non-tower structures that support transmission equipment and whose primary purpose was not solely for providing such support.

In other words an eligible facilities request is a request (ie application) to modify or add on to an existing wireless tower or base station.

Substantial Change

The siting order also explained when an eligible facilities request “substantially changes the physical dimensions” of a tower or base station. A substantial change falls outside of Section 6409(a) if the change involves:

- A tower outside of public rights-of-way (ROW) and increases the height of the tower by more than 10% or by the height of one additional antenna array.
- A tower within the (ROW) or a base station and increases the height of the tower or base station more than 10% or 10 feet, whichever is greater.
- A tower outside the ROW, the change protrudes from the edge of the tower more than 20 feet, or greater than the width of the tower structure, whichever is greater.
- A tower in the ROW or a base station if it protrudes from the edge of the structure more than 6 feet.
- Installation of more than the standard number of new equipment cabinets for the technology involved but does not exceed 4 cabinets.
- Excavation or installation outside of the current site of the tower or base station.
- Causing the purpose of the existing camouflage/concealment elements of the base station or tower to be defeated.
- A tower or base station that does not comply with conditions of the locality's prior approval of construction or modification, unless the non-compliance is due to increases in height, width, additional cabinets, or excavation that does not exceed the above thresholds.

In other words, for Edgewood and other local communities, a request to modify or add on to a tower or base station must exceed height, width, number of cabinet, and excavation thresholds to be regulated by local ordinances. Otherwise the request to modify or add on to a tower or base station must be granted by Edgewood.

City Review Processes

The FCC siting order also clarified the application review and approval time limits in Section 6409(a).

- Local review must be finished within 60 days, including completeness review (clock starts as soon as the application is received). An exception is if the application is incomplete, then the City must notify the applicant within 30 days of submission to stop the clock.
- If the locality determines that 6409(a) does NOT apply to a specific application, then the City has 90 days for colocation applications and 150 days for all other applications to issue a decision.

- When informing an applicant that its application is incomplete, a local government may only require the applicant provide additional documentation that is related to determining whether the application meets the requirements of Section 6409(a).
- If not approved within the 60 day period, the request will be “deemed granted.” The applicant must notify the locality that it is deemed granted and a locality may challenge the applicant’s written notification in court.
- A local government can still require the applicant to comply with “generally applicable building, structural, electrical, and safety codes or other laws codifying objective standards reasonably related to health and safety.” A local government can also impose existing camouflage requirements on a 6409(a) request.

What Edgewood Can and Cannot Do

City Staff and legal counsel will need to conduct additional research into what cities like Edgewood can and cannot enforce on personal wireless facility applications as well as update our code to meet the 2015 FCC siting order definitions and requirements.

An initial survey of the case law seems to suggest that the City may be able to still regulate the location of personal wireless service facilities by zone and by aesthetic impact (requiring screening or camouflage).

Recommendation

City Staff in conjunction with our City Attorney will draft a new code section for Planning Commission review, based on an existing model code and/or legal guidance we can find. There are still some remaining legal questions, that our City Attorney will be able to advise on, but the City’s current requirement of a Conditional Use Permit is no longer enforceable.

In the interim, City Staff will review any PWSF applications only for coverage by Section 6509(a) of the FCC Siting Order.



**CITY OF EDGEWOOD
STAFF REPORT
PLANNING COMMISSION AGENDA ITEM: Comp Plan and Dev
Regs Updates (EMC 18.60)**

Date: June 5, 2017

Title: Comprehensive Plan and Development Regulation Code Update to EMC 18.60

Attachments: DRAFT Ordinance dated April 17, 2017

Submitted By: Kevin Stender, Community Development Director

Approved For Agenda By: Daryl Eidinger, Mayor

Discussion: The City continues to update our codes and regulations to be consistent with newer State and Federal laws. At the recommendation of Legal Counsel, the City has undertaken the update of the regulations as shown in the DRAFT ordinance presented with this Public Hearing for EMC 18.60, regarding Legislative Actions. Legislative Actions primarily include Comprehensive Plan and Land Use Map amendments as well Development Regulation updates. The code updates clarify and simplify the process for undertaking these actions.

Recommendation: Assuming majority vote, prepare a formal recommendation to the City Council to move the process forward for their review and approval.

Fiscal Impact: None known.

CHAPTER ~~2-118.60~~
AMENDMENTS TO THE
COMPREHENSIVE PLAN AND DEVELOPMENT
REGULATIONS

Sections:

- ~~2-118.60.010~~ Purpose and Types of Amendments.**
- ~~2-118.60.020~~ Administration of Legislative Amendments to Development Regulations.**
- ~~2-118.60.030~~ Procedure for Amendments to Development Regulations.**
- ~~2-118.60.040~~ Submission of Applications for Amendments to Development Regulations.**
- ~~2-118.60.050~~ Requirements for a Complete Application.**
- ~~2-118.60.060~~ SEPA Compliance and Transmittal to State.**
- ~~2-118.60.070~~ Public Notice.**
- ~~2-118.60.080~~ Planning Commission Public Hearing.**
- ~~2-118.60.090~~ City Council Action.**
- ~~2-118.60.100~~ Final Decision, Transmittal to State and Appeals.**
- ~~2-118.60.110~~ Appeal of Amendments to Development Regulations.**
- ~~2-118.60.120~~ Administration of Annual Comprehensive Plan Amendments.**
- ~~2-118.60.130~~ Submission of Applications.**
- ~~2-118.60.140~~ Preliminary Docket.**
- ~~2-118.60.150~~ Optional City Council/Planning Commission Workshop on Preliminary Docket.**
- ~~2-118.60.160~~ Planning Commission Hearing on Preliminary Docket.**
- ~~2-118.60.170~~ City Council Decision – Adoption of Final Docket.**
- ~~2-118.60.180~~ Final Docket – Contents.**
- ~~2-118.60.190~~ Effect of Final Docket.**
- ~~2-118.60.200~~ SEPA on Final Docket.**
- ~~2-118.60.210~~ Planning Commission Public Hearing on Final Docket.**
- ~~2-118.60.220~~ Evaluation Criteria for Proposed Amendments.**
- ~~2-118.60.230~~ City Council Action.**
- ~~2-118.60.240~~ Final Decision, Transmittal to State and Appeals.**
- ~~2-118.60.250~~ Planning Commission Periodic Assessment – Recommendations on Amendments.**

~~2-118.60.010~~ Purpose and Types of Amendments.

A. Purpose. The purpose of this chapter is to establish procedures for amendment of the City’s Comprehensive Plan map/text and the Development Regulations. In addition, this chapter will describe the City’s Public Participation process, which is intended to solicit comments and suggested amendments to the City’s Comprehensive Plan and Development Regulations for consideration. The Public Participation process described herein is supplemented by a booklet¹ that provides additional detail.

¹ Attached hereto as Exhibit A.

B. Comprehensive Land Use Plan and Development Regulations. The Comprehensive Land Use Plan is defined as the generalized, coordinated land use policy statement of the City, and the accompanying map, adopted under the Growth Management Act (chapter 36.70A RCW).² The Development Regulations are the controls placed on development or land use activities by the City, including, but not limited to, the City’s codes on zoning, critical areas, official controls, planned unit developments, subdivisions, binding site plans and the Shoreline Master Program.³

C. Types of Amendments.⁴ The applications that will be processed under this Chapter as legislative amendments are Comprehensive Plan Amendments to the Comprehensive Plan Map or Policies and Development Regulation Amendments (to the text of the Development Regulations) which do not implement the existing Comprehensive Plan.⁵

2.118.60.020 Administration of Legislative Amendments to Development Regulations.

The Director is authorized to administer the provisions of this Chapter. The Planning Commission shall have the authority to hold the public hearing on any proposed legislative amendments to the development regulations, and to provide a recommendation to the City Council. The City Council shall consider the Planning Commission’s recommendation during a public meeting or a public hearing and shall make a final decision.⁶

2.118.60.030 Procedure for Amendments to Development Regulations. The following steps shall be followed in the processing of applications for Amendments to Development Regulations. *[Hyperlink will be set to each procedure so the reader will be directed to the appropriate section of the code.]*

- A. ~~2.118.60.050.---~~ Director’s Determination that the Application is Complete;⁷
- B. ~~2.118.60.060.---~~ SEPA;
- C. ~~2.1.---~~18.60.080 Notice of Public Hearing;
- D. ~~2.118.60.210.---~~ Public Hearing before the Planning Commission;
- F. ~~2.1.---~~18.60.230: City Council considers application;
- G. ~~18.60.2402.1.---~~ Final Decision, transmittal to state;
- H. ~~2.1.---~~18.60.240 Appeal to Growth Management Hearings Board (if any).

2.118.60.040 Submission of Applications for Amendments to Development Regulations (Who May Submit and When).⁸

² RCW 36.70A.030(4).

³ RCW 36.70A.030(7).

⁴ There is no bright line rule to distinguish between quasi-judicial and legislative rezones. However, there are general rules established in case law to be used in individual situations. *See, Raynes v. City of Leavenworth*, 118 Wash.2d 237, 248, 821 P2d 1204 (1992).

⁵ *Kittitas County v. Kittitas County Conservation*, 176 Wn.App. 38, 308 P.3d 745 (2013) (a site specific rezone is a project permit approval appealable under LUPA if it is authorized by a then-existing comprehensive plan. A site specific rezone is an amendment to a development regulation under GMA if it implements a comprehensive plan amendment).

⁶ *See*, RCW 36.70A.035(2)(a).

⁷ This is an informal process because an application for an amendment to a development regulation is not for a “project permit,” and therefore is not subject to RCW 36.70B.070 which describes the process for determining whether a project permit is complete.

A. Who May Submit Applications. Any interested person,⁹ including citizens, Hearing Examiners, staff of other agencies, Planning Commission and City Council members, may submit an application for an amendment of a development regulation.

B. When Applications May Be Submitted. The text of the City’s adopted development regulations may be amended at any time, provided that the amendment is consistent with the City’s Comprehensive Plan and Land Use Map. When inconsistent with the Comprehensive Plan and Land Use Map, the amendment shall be processed concurrent with any necessary Plan amendments using the process and timelines for Comprehensive Plan Amendments in Sections [2-18.60.120](#) through [.240](#) of this chapter. Applications that do not include the information required in Section [2-18.60.050](#) shall not be processed.

[2-18.60.050](#) Requirements for a Complete Application. The following materials shall be submitted to the City for a complete application for a Development Regulation Amendment:

- A. An application form provided by the City;
- B. Name, address, phone number and e-mail of the applicant and if the applicant is not the property owner, proof of the property owner’s consent to the submission of the application;
- C. Name, address, phone number and e-mail of the owner of the property identified in the application (if applicable);
- D. A legal description of the property, if applicable;
- E. A description of the proposed Amendment and any associated development proposals, if applicable. Formal site-specific or project-related amendments shall include plans, information and/or studies that accurately depict existing and proposed uses(s) and improvements. Proposed site-specific or project related Amendments that do not specify propose use(s) and potential impacts will be assumed to have maximum impact to the environment, public facilities and services;
- F. Proposed amendatory language, preferably shown in “bill” format (*i.e.*, new language underlined; language proposed for deletion in strikeouts);
- G. An explanation of the rationale for the proposed Amendment;
- H. An explanation of how the proposed Amendment and associated development proposal(s) if any, conform to, conflict with, or relate to the criteria set forth in Section [18.602-1.220](#);
- I. A completed SEPA checklist including the supplement sheet for nonproject actions (if applicable);
- J. Application fee as set forth in the City’s resolution adopted for this purpose; and
- K. Any additional information reasonably deemed necessary by the Planning Director to evaluate the proposed amendment.

[2-18.60.060](#) SEPA Compliance and Transmittal to State. If an application for an Amendment to the Development Regulations is submitted outside of the annual Comprehensive

⁸ Processing of legislative approvals is not subject to “project permit processing,” pursuant to RCW 36.70B.020(4), definition of “project permit application,” which excludes legislative action.

⁹ See, RCW 36.70A.470(2).

Plan Amendment process, SEPA shall be performed on the application as set forth in chapter ____ (City’s SEPA ordinance). If applicable, the City shall notify the State Department of Commerce of its intent to adopt the proposed amendment(s) to the Development Regulations at least sixty (60) days prior to final adoption.¹⁰

[2-18.60.070](#) Public Notice.¹¹

A. Notice of any public hearing on an application for an Amendment to a Development Regulation submitted outside of the annual Comprehensive Plan Amendment process set forth in Sections [2-18.60.120](#) through [.240](#) of this chapter, shall be given by one publication in the official newspaper of the City at least 10 days prior to the date of the hearing and by posting a copy of the notice of public hearing in City Hall and on the City’s website. Additional notice may be required by state or local law (*e.g.*, statutory notice requirements for amendments to the Shoreline Master Program), or additional notice may be provided as deemed appropriate by the Director.

B. The public notice shall include the following:

1. The purpose(s) of the Amendment;
2. The deadline for submitting comments on the Amendment;
3. A tentative hearing schedule; continued hearings may be held by the

Planning Commission but no additional notices need be published.

[2-18.60.080](#) Planning Commission Public Hearing. The Planning Commission shall hold a public hearing on an application for a Amendments to a Development Regulation and shall make a recommendation to the City Council, using the criteria set forth in Section [2-18.60.220](#), as applicable. There is no limit on the number of public hearings or continuation of public hearings that the Commission (or City Council) may hold on a proposed Amendment.¹²

[2-18.60.090](#) City Council Action. The City Council shall consider the proposed Amendment to the Development Regulations and the Planning Commission’s recommendation at a regularly scheduled meeting. The City Council shall also apply the criteria set forth in Section [2-18.60.220](#), as applicable, in order to make a final decision.

1. If the City Council concludes that no change in the recommendation of the Planning Commission is necessary, the City Council may make a final determination on the proposed amendment(s) without holding another public hearing, and make a final decision.

2. If the City Council concludes that a change in the recommendation of the Planning Commission is necessary, the City Council shall consider whether another opportunity

¹⁰ RCW 36.70A.106(1).

¹¹ See, *Holbrook v. Clark County*, 112 Wn. App. 354, 49 P.3d 142 (2002) (Due process did not require that county give individual notice to property owner whose property was subject to an area-wide, legislative redesignation under the GMA comprehensive plan amendment process).

¹² Legislative actions are not subject to the project permit processing limit of no more than one open record hearing and one closed record appeal in RCW 36.70B.060(6).

for public review and comment is needed under RCW 36.70A.035(2)(a) and if so, it shall hold another public hearing before making a final decision.

2-118.60.100 Final Decision, Transmittal to State and Appeals. If the City Council decides not to adopt the proposed Amendment to the Development Regulations, it shall pass a resolution with the associated findings and conclusions to support its decision. If the City Council decides to adopt the proposed Amendment to the Development Regulations, it shall adopt an ordinance with the associated findings and conclusions to support its decision. A copy of this ordinance shall be sent to the State Department of Commerce within ten days after final adoption.¹³

2-118.60.110 Appeal of Legislative Amendments to Development Regulations. Appeals of the City’s final decision may be filed with the Growth Management Hearings Board, pursuant to RCW 36.70A.290.

2-118.60.120 Administration of Annual Comprehensive Plan Amendments.

A. Legislative Amendments to the Comprehensive Plan. The Director is authorized to administer the provisions of this Chapter. The Planning Commission shall have the authority to hold the public hearing on any proposed Comprehensive Plan amendment(s), and to provide a recommendation to the City Council. The City Council shall consider the Planning Commission’s recommendation during a public meeting or a public hearing and make a final decision.

B. Development Agreement. A Legislative Amendment to the Comprehensive Plan that is site-specific may be approved subject to the execution, delivery and recording of a Development Agreement between the City Council and the property owner of the subject property (or the legal owner of a beneficial interest in the subject property). The Development Agreement may impose conditions to address the criteria set forth in Section 2-118.60.220, and approval of the Comprehensive Plan Amendment shall be conditioned upon performance or compliance with the terms and conditions of the Development Agreement. The City may revoke (or take other action allowed by law) a Comprehensive Plan Amendment executed with a Development Agreement for failure to comply with the Development Agreement. An applicant proposing a Comprehensive Plan Amendment with a Development Agreement shall submit the proposed Development Agreement with the application materials described in Section 2-118.60.050. The City will evaluate the proposed Development Agreement together with the proposed Comprehensive Plan Amendment (*see* Chapter ___ on Development Agreements), to determine whether the Amendment should be approved.

2-118.60.130 Submission of Applications (Who May Submit and When).

A. Who May Submit Applications for Amendments Related to a Site-Specific Development Proposals. Proponents of land development projects and/or property owner(s) or their authorized representative(s), may file an application for an Amendment to the Comprehensive Plan relating to a site-specific proposal. The complete application shall consist of the materials described in Section 2.1.050. The application filing fee as set forth in the City’s

¹³ RCW 36.70A.106(2).

fee resolution shall accompany the application, which shall also require the applicant to pay for the applicant’s portion of the SEPA review attributable to the application.

B. Who May Suggest Amendments. Any interested person,¹⁴ including citizens, Hearing Examiners, staff of other agencies, Planning Commission and City Council members, may suggest an Amendment to the Comprehensive Plan. Generally, suggested Amendments should be limited to proposals that broadly apply to the goals, policies and implementation strategies of the Comprehensive Plan rather than amendments designed to address site-specific issues of limited applicability. If an application is not submitted for the suggested Amendment by an interested person, the Planning Director shall include the suggested Amendment on a Docket that is maintained each year for this purpose. The process described in Sections ~~2-18.60~~.160 through .170 of this chapter shall resolve the question whether such suggested Amendments will be considered during the annual review process.

C. Amendments Considered Once a Year. Applications for Amendments to the City’s Comprehensive Plan may not be considered more frequently than once every year, except: (1) under the circumstances described in RCW 36.70A.130(2)(i) through (v); (2) when needed to resolve an emergency condition or situation that involves public health, safety or welfare and when adherence to the Amendment process set forth in this chapter would be detrimental to the public health, safety and welfare. Situations involving official legal or administrative action affecting the City will be reviewed by the City Council with advice from the City Attorney to determine whether an emergency exists warranting an emergency Comprehensive Plan Amendment. Except as otherwise provided in RCW 36.70A.130(2)(a), all Comprehensive Plan Amendments shall be considered concurrently so that the cumulative effect of the various proposals may be ascertained.

D. Deadline for Application Submittal. All applications for Comprehensive Plan Amendments shall be submitted to the Planning Director by March 1st of the current calendar year (or be included in the Director’s docket of suggested amendments by this date) in order to be considered during that year’s amendment process; except that City-sponsored proposals to amend the Capital Facilities Element of the Comprehensive Plan may be accepted later than other proposed amendments because of their relationship to the City’s annual budget process. Applications that do not include the information required under subsection ~~2-18.60~~.150 for a complete application, or which are not received by the deadline set forth in this subsection, shall not be processed.

~~2-18.60~~.140 Preliminary Docket.

A. Contents. A preliminary docket shall be maintained by the Planning Director, which shall consist of the following:

1. All applications submitted before the March 1st deadline to amend the Comprehensive Plan;
2. All amendments suggested during the year by citizens, the Planning Commission, City Council, staff, departments or other agencies.

¹⁴ See, RCW 36.70A.470(2).

B. Planning Director Responsibilities. After compiling the preliminary docket, the Planning Director shall review the suggested amendments and prepare a report concerning which suggested amendments that the Planning Director believes should be placed on the final docket for consideration during the annual amendment process. In addition to addressing the need, urgency and appropriateness of each suggested amendment, the staff report shall include, but not be limited to, a consideration of the following:

1. The availability of sufficient planning staff to substantively review the suggested amendments and manage the public review process with available staff; and
2. Anticipated planning costs and budget for processing the suggested amendments.

2-18.60.150 Optional City Council/Planning Commission Workshop on Preliminary Docket. The City Council and Planning Commission may, but are not required to, hold a noticed joint workshop meeting to gather information regarding the items on the preliminary docket and the administrator’s report and recommendation. If held, notice of the joint workshop meeting shall be given by publication in the City’s official newspaper at least one time, ten (10) days prior to the date of the meeting and by posting a copy of the meeting notice at City Hall and the City’s website, which shall include a statement of the purpose of the joint workshop.

2-18.60.160 Planning Commission Hearing on Preliminary Docket. The Planning Commission shall hold a noticed public hearing to accept public comment regarding the suggested amendments on the preliminary docket. Following the hearing, the Planning Commission shall prepare a report and recommendation identifying those suggested amendments that it is recommending for consideration by the City Council during the annual amendment process. The Planning Commission’s recommendation shall be based upon the perceived need, urgency and appropriateness of each suggested amendment. The Planning Commission’s report and recommendation shall also include those proposed amendments resulting from its periodic assessment set forth in Section 2-18.60.250, as applicable. Notice of the Planning Commission’s hearing shall be given as set forth in Section 2-18.60.070.

2-18.60.170 City Council Decision – Adoption of Final Docket. The City Council shall review and consider the Planning Commission’s report and recommended final docket at a regularly scheduled Council meeting. The City Council may adopt the Planning Commission’s recommended final docket without a public hearing; however, in the event that a majority of the City Council decides to add or subtract suggested amendments, it shall first hold a public hearing, noticed as set forth in Section 18.602-1.070.

2-18.60.180 Final Docket -- Contents. The final docket adopted by the City Council shall include the following:

1. All applications for Comprehensive Plan Amendments for site-specific amendments timely submitted under Section 2-18.60.130; and
2. Any proposals for suggested amendments which the City Council elects to consider during the annual amendment process.

~~2.118.60.190~~ Effect of Final Docket. The City Council’s decision to adopt the final docket does not constitute a decision or recommendation that the substance of any site-specific amendment or suggested amendment be adopted. No additional amendment proposals shall be considered by the City after adoption of the final docket for that year, except for those identified in RCW 36.70A.130(2)(i) through (v), and City-sponsored proposals to amend the capital facilities element of the Comprehensive Plan as set forth in RCW 36.70A.130(2)(a)(iv).

~~2.118.60.200~~ SEPA on Final Docket. The final docket as adopted by the City Council shall first be reviewed and assessed by the Planning Director, who shall prepare a staff report and recommendation on each proposed amendment. The Planning Director shall also be responsible for conducting SEPA review of all items on the final docket, as required by [\[reference City’s SEPA Chapter here.\]](#) As appropriate, the Planning Director shall solicit comments regarding the proposed amendments from the public and/or government agencies. The Planning Director shall also be responsible for providing notice and opportunity for public comment as deemed appropriate, given the nature of the proposed amendments and consistent with RCW 36.70A.140 and SEPA (chapter 43.21C RCW and chapter 197-11 WAC). Issuance of the SEPA threshold decision on the proposed Comprehensive Plan Amendments shall be coordinated such that if an appeal of the SEPA threshold decision is filed, the appeal can be considered [\[consult your SEPA chapter for the identity of the decision_maker on the appeal.\]](#)¹⁵

~~2.118.60.210~~ Planning Commission Public Hearing on Final Docket.

A. All proposed amendments on the final docket shall be reviewed and assessed by the Planning Commission, which shall make a recommendation to the City Council after holding at least one public hearing.

B. After the public hearing(s), the Planning Commission shall develop findings and conclusions to support its recommendation to the City Council that the proposed amendment(s) be denied, approved, or approved with conditions or modifications.

~~2.118.60.220~~ Evaluation Criteria for Proposed Amendments. The Planning Commission shall review the proposed Amendments to the Comprehensive Plan and Development Regulations under the following criteria to develop findings and conclusions to support a recommendation:

A. All Amendments. All of the Comprehensive Plan Amendments shall be reviewed under the following criteria:

1. Whether the proposed amendment(s) conform to the Growth Management Act (chapter 36.70A RCW);¹⁶
2. Whether the proposed amendment(s) are consistent with and implement the City’s Comprehensive Plan, including the goals, policies and implementation strategies of the various elements of the Plan;

¹⁵ There must be an open record public hearing on the SEPA appeal. Does the City’s SEPA ordinance require that the City Council handle the SEPA appeal? There can only be one SEPA appeal. So, if the City Council wants to handle the SEPA appeal, this must be addressed.

¹⁶ RCW 36.70A.130(1)(d).

3. Whether circumstances related to the proposed amendment(s) and/or the area in which it is located have substantially changed since the adoption of the City’s Comprehensive Plan;

4. Whether the assumptions upon which the City’s Comprehensive Plan is based are no longer valid, or whether new information is available which was not considered during the adoption process or any annual amendments of the City’s Comprehensive Plan; and

5. Whether the proposed amendment(s) reflects current, widely held values of the residents of the City.

B. Amendments for Site-Specific Proposals. In addition to the above, any proposal for a site-specific development or amendment shall be reviewed under the following criteria:

1. Whether the proposed site-specific amendment(s) meets concurrency requirements for transportation and does not adversely affect adopted level of service standards for other public facilities and services (*e.g.*, police, fire and emergency medical services, parks, fire flow and general governmental services);

2. Any proposed site-specific amendment(s) will not result in probable significant adverse impacts to the City’s transportation network, capital facilities, utilities, parks and environmental features that cannot be mitigated, and will not place uncompensated burdens upon existing or planned service capabilities;

3. In the case of a site-specific amendment(s) to the Comprehensive Plan’s Land Use Map, that the subject parcels are physically suitable for the requested land use designation and the anticipated land use development, including, but not limited to, the following: (i) access; (ii) provision of utilities; and (iii) compatibility with existing and planned surrounding land uses;

4. The proposed site-specific amendment(s) will not create pressure to change the land use designation of other properties, unless the change of land use designation for other properties is in the long-term best interests of the City as a whole;

5. The proposed site specific amendment(s) does not materially affect the land use and population growth projections that are the bases of the Comprehensive Plan;

6. If within an incorporated urban growth area (UGA), the proposed site-specific amendment(s) does not materially affect the adequacy or availability of urban facilities and services to the immediate area and the overall UGA;

7. The proposed amendment(s) is consistent with any applicable County-Wide Policies for the City and any other applicable inter-jurisdictional policies or agreements, and any other local, state or federal laws.

2.1.230 City Council Action. The City Council shall consider the proposed Comprehensive Plan Amendments and the Planning Commission’s recommendation at a regularly scheduled meeting. The City Council shall also apply the criteria set forth in Section 2.1.220, as applicable, in order to make a final decision.

1. If the City Council concludes that no change in the recommendation of the Planning Commission is necessary, the City Council may make a final determination on the proposed amendment(s) without holding another public hearing, and make a final decision.

2. If the City Council concludes that a change in the recommendation of the Planning Commission is necessary, the City Council shall consider whether another opportunity for public review and comment is needed under RCW 36.70A.035(2)(a) and if so, it shall hold another public hearing before making a final decision.

2-118.60.240 Final Decision, Transmittal to State and Appeals. The Council’s final action on the docket must be taken by the second regular Council meeting in December of each year. If the City Council decides not to adopt the proposed Comprehensive Plan Amendments, it shall pass a resolution with the associated findings and conclusions to support its decision. If the City Council decides to adopt the proposed development regulations, it shall adopt an ordinance with the associated findings and conclusions to support its decision. A copy of this ordinance shall be sent to the State Department of Commerce within ten days after final adoption.¹⁷ All appeals to the adoption of an amendment(s) to the City’s Comprehensive Plan or development regulations shall be filed with the Growth Management Hearings Board in accordance with the provisions of RCW 36.70A.290 and Chapter 36.70A RCW.

2-118.60.250 Planning Commission Periodic Assessment – Recommendations on Amendments.

A. Timelines. The Planning Commission shall review, and if necessary, recommend revisions to the Comprehensive Plan during a periodic assessment performed in accordance with RCW 36.70A.130. The Planning Commission shall complete its assessment of the Comprehensive Plan by November 1st of the year prior to the assessment. Any amendments recommended by a majority vote of the Planning Commission shall be forwarded to the Planning Director by March 1st of the year in which the periodic assessment is conducted. The Planning Director shall place all such recommended amendments on the preliminary docket to be considered during the final docket selection process set forth in Sections 2-118.60.140 through .170 of this chapter.

B. Criteria Governing Planning Commission Assessment. The Planning Commission’s periodic assessment and recommendation shall be based upon, but shall not be limited to, an inquiry into the following growth management indicators:

1. Whether growth and development as envisioned in the Comprehensive Plan is occurring faster or slower than anticipated, or is failing to materialize;
2. Whether the capacity of the City to provide adequate services has diminished or increased;
3. Whether sufficient urban land is designated and zoned to meet projected demand and need;
4. Whether any of the assumptions upon which the plan is based are no longer found to be valid;
5. Whether changes in county-wide attitudes necessitate amendments to the goals of the plan and the basic values embodied within the Comprehensive Plan;
6. Whether changes in circumstances dictate a need for amendments; and

¹⁷ RCW 36.70A.106(2).

7. Whether inconsistencies exist between the Comprehensive Plan and the GMA or the Comprehensive Plan and any County-wide Planning Policies for the City.