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ORDINANCE NO. 882

AN ORDINANCE OF THE CITY OF CARNATION, WASHINGTON, AMENDING CHAPTER 15.09 CMC LOCAL PROJECT REVIEW AND CHAPTER 15.10 CMC PUBLIC HEARINGS; UPDATING AND CLARIFYING THE CITY'S PROCEDURES FOR PROCESSING SITE-SPECIFIC REZONES; ENTERING LEGISLATIVE FINDINGS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 35A.63 RCW, Chapter 36.70B RCW and Chapter 36.70A RCW, the City of Carnation has established standards and procedures governing development activity within the City; and

WHEREAS, in accordance with applicable state law, the City's procedures designate the City Council as the ultimate decision-maker with respect to site-specific rezone proposals; and

WHEREAS, the City desires to adopt the amendments set forth herein in order to clarify and reaffirm the role of the City's Hearing Examiner in conducting the pre-decisional hearing with respect to such proposals; and

WHEREAS, as set forth in this ordinance, it is the City Council's express legislative intent that, for site-specific rezone proposals which are not consolidated with a related Comprehensive Plan amendment, the Hearing Examiner shall hold the requisite pre-decisional public hearing and shall forward a written recommendation regarding the same to the City Council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARNATION, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council hereby adopts the above recitals, together with the content of the Planning Board recommendation dated October 27, 2016, as legislative findings in support of this ordinance. The City Council further enters the following findings:

A. The City is authorized by State law, including but not limited to Chapter 35A.63 RCW, Chapter 36.70A RCW and Chapter 36.70B RCW, to enact regulations governing the use and development of real property within the City's jurisdiction, including land use permitting and approval procedures.

B. The regulations set forth in this ordinance have been processed and considered by the City in material compliance with all applicable procedural requirements, including but not limited to requirements related to public notice and comment.

C. The City Council has carefully considered, and the regulations set forth in this ordinance satisfy, the review criteria codified at CMC 15.100.030(E).

D. The regulations set forth in this ordinance are consistent with and will implement the City's Comprehensive Plan, and will further advance the public health, safety and welfare.

E. All relevant provisions of the State Environmental Policy Act have been satisfied with respect to this ordinance.

Section 2. Amendment of CMC 15.09.020. Section 15.09.020 of the Carnation Municipal Code is hereby amended to provide in its entirety as set forth in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full.

Section 3. Amendment of CMC 15.09.050. Section 15.09.050 of the Carnation Municipal Code is hereby amended to provide in its entirety as set forth in Exhibit B, attached hereto and incorporated herein by this reference as if set forth in full.

Section 4. Amendment of CMC 15.09.110. Subsection 15.09.110(A) of the Carnation Municipal Code is hereby amended to provide in its entirety as follows:

15.09.110 - Pre-application conference.

A. It is recommended that applications for project permits Type III, IV, IVA, and V attend a pre-application conference. The purposes of the pre-application conference is to acquaint the applicant with the requirements of this code and project review procedures and for city staff to be acquainted with the proposed application for purposes of determining appropriate review procedures and facilitating the application and project review process. In order to ensure that the pre-application conference is meaningful, the applicant must provide all information requested on the form required by the city planner.

....

Section 5. Amendment of CMC 15.09.140. Subsection 15.09.140(A) of the Carnation Municipal Code is hereby amended to provide in its entirety as follows:

15.09.140 - Notice of application.

A. Generally, A notice of application shall be issued on all Type II, III, IV, IVA and V project permit applications except as otherwise provided in subsection B of this section.

....

Section 6. Amendment of CMC 15.09.150. Subsections 15.09.150(A), (C) and (D)(1) of the Carnation Municipal Code are hereby amended to provide in their respective entirety as follows:

15.09.150 - Notice of decision.

A. Issuance. The city planner shall issue a written notice of decision in connection with the city planner's or hearing body's decision on a Type II, III, IV, IVA or V project permit application.

....

C. Public Notice. A copy of the notice of decision shall be publicly distributed by the applicant as follows:

1. For Type II, III, IV, IVA and V project permit types, mailed to the following persons, in accordance with the mailing procedures specified in Section 15.09.200:

- a. The applicant;
- b. All parties of record as defined in Section 15.08.030;
- c. The county assessor's office.

2. For project permit Types III, IV, IVA and V posted on the notice board as provided in Section 15.09.180.

D. Timeline for Issuance. The city shall issue a notice of decision for all Type II, III, IV, IVA and V project permit applications according to the following timelines:

1. Within one hundred twenty calendar days after the city notifies the applicant that the application is complete pursuant to the following sections. Except that, for Type III and IV preliminary long subdivisions and preliminary short subdivision applications the time periods shall be consistent with Chapter 58.17 RCW;

....

Section 7. Amendment of CMC 15.09.170. Section 15.09.170 of the Carnation Municipal Code is hereby amended to provide in its entirety as set forth in Exhibit C, attached hereto and incorporated herein by this reference as if set forth in full.

Section 8. Amendment of CMC 15.10.010. Subsection 15.10.010(A)(2) of the Carnation Municipal Code is hereby amended to provide in its entirety as follows:

15.10.010 - General—When required.

A. Open Record Public Hearings. Open record public hearings shall be conducted on project permit applications as indicated below:

....

2. All Type IV and Type IVA project permit applications shall require an open record public hearing before the city's land use hearing examiner;

....

Section 9. Amendment of CMC 15.10.020. Subsection 15.10.020(A) of the Carnation Municipal Code is hereby amended to provide in its entirety as follows:

15.10.020 - Responsibility of city planner for hearing.

The city planner shall have the following responsibilities:

- A. Schedule Type III, IV, IVA, V hearings and administrative appeals of Type I, II and III applications for review and public hearing before the appropriate hearing body.

....

Section 10. Amendment of CMC 15.10.030. Subsection 15.10.030(A)(3) of the Carnation Municipal Code is hereby amended to provide in its entirety as follows:

15.10.030 - Notice of public hearing.

- A. The notice of public hearing shall be publicly noticed as follows:

....

- 3. Posted in accordance with Section 15.09.180 for Type II, III, IV, IVA, and V applications.

....

Section 11. Amendment of CMC 15.10.090. Subsections 15.10.090(A)(1) and (B) of the Carnation Municipal Code are hereby amended to provide in their respective entirety as follows:

15.10.090 - Findings, conclusions and decision.

A. Findings, Conclusions and Decision. Following the applicable hearing procedure described in this chapter, the hearing body shall act as follows:

1. If the subject of the hearing is a Type III, Type IV or Type V project permit application, the hearing body shall approve, conditionally approve, or deny the application. If the subject of the hearing is a Type IVA project permit application, the hearing body shall provide a recommendation recommending approval, conditional approval or denial of the application. The hearing body shall issue a written decision or recommendation containing findings and conclusions that evidence and support the decision or recommendation. For Type III project permit applications, a copy of the permit or approval may constitute the decision.

....

B. Decision Timeline. The project permit decision or recommendation should be issued by the hearing body according to the following timelines:

1. The written decision or recommendation of the hearing body should be issued within ten working days after the open record hearing or closed record appeal on a project permit application or appeal;

2. If the hearing body or officer is unable to issue its final decision or recommendation on a project permit application within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the ~~notice of~~ decision or recommendation.

Section 12. Amendment of CMC 15.10.100. Subsection 15.10.100 of the

Carnation Municipal Code is hereby amended to provide in its entirety as follows:

15.10.100 - Reconsideration of a hearing body decision.

Reconsideration of a hearing body's decision or recommendation shall be subject to the following:

A. Any party of record may file, at their discretion, a written petition for reconsideration within ten calendar days following the date of the hearing body's written decision or recommendation. The petition shall be filed with the city planner.

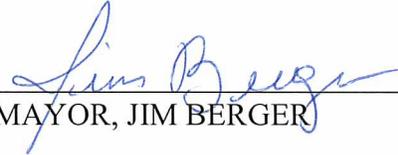
B. The grounds for seeking reconsideration shall be limited to those listed in Section 15.10.090(A)(3).

- C. The petition for reconsideration must:
1. Contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner's attorney, if any;
 2. Identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested;
 3. Describe the specific relief requested including the specific reasons for which relief is requested; and, where applicable;
 4. Identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.
- D. The petition for reconsideration shall be deemed to have been denied if one of the actions specified in subsection E of this section, has not been taken within ten working days of the date the petition is timely commenced.
- E. The petition for reconsideration shall be disposed of in writing by the same hearing body that rendered the decision or recommendation. The hearing body may at its discretion:
1. Deny the petition; or
 2. Grant the petition and issue an amended decision or recommendation; or
 3. Grant the petition and give all parties of record the opportunity to submit written comment. Notice of the hearing body's decision to grant the petition, together with a copy of the petition for reconsideration shall be mailed in accordance with Section 15.09.200 to all parties of record. Parties of record shall have ten working days from the date of the reconsideration notice to submit written comments.
- F. A decision or recommendation which has been subjected to the reconsideration process shall not again be subject to reconsideration.
- G. The hearing body may consolidate for action, in whole or in part, multiple petitions for reconsideration of the same decision or recommendation where such consolidation would facilitate procedural efficiency.

Section 13. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 14. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

APPROVED by the Carnation City Council this 6th day of December, 2016.


MAYOR, JIM BERGER

ATTEST/AUTHENTICATED:


CITY CLERK, MARY MADOLE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
J. ZACHARY LELL

FILED WITH THE CITY CLERK:10/26/2016
PASSED BY THE CITY COUNCIL:12/06/2016
PUBLISHED:12/14/2016
EFFECTIVE DATE:12/19/2016
ORDINANCE NO.882

Exhibit A

15.09.020 - Classifications for project permit applications.

For the purpose of local project review, all project permit applications shall be classified as one of the following described below:

Project Permit Type	Review and Approval Authority	Open Record Appeal/Hearing	Closed Record Appeal/Hearing
TYPE I	City planner	Hearing examiner appeal	None
TYPE II	City planner	Hearing examiner appeal	None
TYPE III	Hearing examiner	Hearing examiner public hearing	City council appeal
TYPE IV	Hearing examiner	Hearing examiner public hearing	None
<u>TYPE IVA</u>	<u>City council</u>	<u>Hearing examiner public hearing</u>	<u>Closed record city council review of hearing examiner recommendation</u>
TYPE V	City council	City council hearing (except final plat)	None
EXEMPT	N/A	N/A	N/A

Exhibit B

The following project permit applications shall be reviewed and processed in accordance with the project permit application type specified below.

EXEMPT	TYPE I	TYPE II	TYPE III	TYPE IV	TYPE IVA	TYPE V
	BUILDING PERMITS (CMC Title 16)	SPECIAL USE PERMITS (CMC 15.18.010 et seq.)	CONDITIONAL USE PERMITS (CMC 15.17.190 et seq.)	PRELIMINARY LONG PLAT APPROVAL (CMC 15.16.190 et Seq.)		FINAL PLAT APPROVAL (CMC 15.16.350) (1)
RIGHT-OF-WAY STREET USE PERMIT (CMC 15.56.250)	SIGN PERMITS (CMC 15.68.010)	CLEAR AND GRADING PERMITS that (1) involve 500 cu yds or more of material, (2) will create a 2 ft or greater change in grade at the property line, or (3) will permanently change existing drainage patterns ⁽²⁾ .				
RIGHT-OF-WAY PERMIT (CMC 15.60.030)	BOUNDARY LINE ADJUSTMENT (CMC 15.16.600)	PRELIMINARY AND FINAL SHORT PLAT APPROVAL (CMC 15.16.010 et seq.)		PRELIMINARY LONG PLAT AMENDMENTS (CMC 15.16.370)	<u>SITE SPECIFIC REZONE</u> – Not consolidated with a comprehensive plan amendment	SITE SPECIFIC REZONE (CMC 15.36.110) Consolidated with a comprehensive plan amendment.
LANDMARK DESIGNATION (CMC 15.20.030)	TEMPORARY RESIDENCE PERMIT (CMC 15.44.030)	PRELIMINARY SHORT PLAT AMENDMENTS (CMC 15.16.460)				
TEMPORARY PUBLIC STRUCTURE PERMIT (CMC 15.44.050)	TEMPORARY RV USE PERMIT (CMC 15.44.030)	BINDING SITE PLAN (CMC 15.18.410 et seq.)	SHORELINE CONDITIONAL USE (CMC 15.92)			
SPECIAL USE PERMIT FOR SPECIAL EVENT (CMC 15.44.060)	OTHER CONSTRUCTION LEVEL PERMITS THAT ARE CATEGORICALLY EXEMPT FROM SEPA AND CMC TITLE 14.	RESIDENTIAL CONDOMINIUM BIND SITE PLAN (CMC 15.18.520 et seq.)	SHORELINE VARIANCE (CMC 15.92.120)			
STREET VACATIONS	ADMINISTRATIVE INTERPRETATIONS (CMC 15.09.010)	SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT (CMC 15.92)	VARIANCE (CMC 15.20.030)			
OTHER PERMITS THAT THE CITY	DESIGN REVIEW, MINOR	SITE DEVELOPMENT	SIGN VARIANCE			

EXEMPT	TYPE I	TYPE II	TYPE III	TYPE IV	TYPE IVA	TYPE V
COUNCIL DETERMINES BY ORDINANCE OR RESOLUTION PRESENT SPECIAL CIRCUMSTANCES THAT WARRANT A DIFFERENT REVIEW PROCESS.	EXTERIOR REMODEL (CMC 15.18.340)	REVIEW (CMC 15.16.150 et seq.)	(CMC 15.68.120)			
LEGISLATIVE DECISIONS (AREA WIDE REZONES, COMPREHENSIVE PLAN AMENDMENTS)	CLEAR AND GRADING PERMIT under 500 cu yds	DESIGN REVIEW, MAJOR EXTERIOR REMODEL (CMC 15.18.270)	CRITICAL AREAS REASONABLE USE EXCEPTION (CMC 15.88.050)			
	MINOR SITE DEVELOPMENT REVIEW (CMC 15.18.160.B)					

- (1) Final plat approval shall be by city council decision but shall not include an open record public hearing.
- (2) The applicant shall bear the burden of demonstrating that existing drainage patterns will not be disrupted by the grading, excavation or filling activity. This demonstration may be made by submittal of topographical site maps, photographic evidence, or other engineering documentation. The public works director shall have sole discretion in determining the sufficiency of any such documentation.

B. Table summarizing procedures for Type I through Type V project permit applications. For the purposes of this table, the city council and hearing examiner are designated as the "hearing body."

PROCEDURE	TYPE I	TYPE II	TYPE III	TYPE IV	TYPE IVA	TYPE V
Pre-application conference	Not required	Not required	Recommended	Recommended	<u>Recommended</u>	Recommended
Determination of completeness	Not required	Required	Required	Required	<u>Required</u>	Required
Notice of application	Not required	Required	Required	Required	<u>Required</u>	Required
Primary decision-maker	City planner	City planner	Hearing examiner	Hearing examiner	<u>City Council*</u>	City council
Open record public hearing	No	No	Yes	Yes	<u>Yes</u>	Yes (except Final Plat)
Open record appeal	Yes	Yes	No	No	<u>No</u>	No
Closed record appeal	No	No	Yes	No	<u>No</u>	No
Notice of decision	No	Yes	Yes	Yes	<u>Yes</u>	Yes
Reconsideration	Yes, if appealed	Yes, if appealed	Yes	Yes	<u>Yes</u>	Yes

*After hearing examiner recommendation

Exhibit C

15.09.170 - Notification requirements.

The following chart lists the public notification requirements for each process type:

Type of Notification	Type I	Type II	Type III	Type IV	Type IVA	Type V
Notice of Application Section 15.09.140	None	Posting in accordance with Section 15.09.180 Mailing in accordance with Section 15.09.200 Publishing in accordance with Section 15.09.190				
Notice of Open Record Public Hearing Section 15.10.030	None	None	Posting in accordance with Section 15.09.180 Mailing in accordance with Section 15.09.200 Publishing in accordance with Section 15.09.190			
Notice of Closed Record Appeal	None	None	None			
Notice of Decision Section 15.09.150	None	None	Mailing in accordance with Section 15.09.200 Posting in accordance with Section 15.09.180			
Notice of Open Record Appeal	Mailing in accordance with Section 15.09.200	Mailing in accordance with Section 15.09.200 Posting in accordance with Section 15.09.180		N/A	<u>N/A</u>	N/A