

## **Title 16**

### **LAND USE AND ENVIRONMENTAL PROCEDURES**

#### **Chapters:**

- 16.02 Purpose**
- 16.04 Definitions**
- 16.06 General Provisions**
- 16.08 Fees for Consultant Services**
- 16.10 Temporary Permits**
- 16.12 Legal Nonconforming Uses**
- 16.14 Enforcement**
- 16.16 State Environmental Policy Act**
- 16.18 Classification of Permits by Type**
- 16.20 Type I Permit Procedure (Short Plats and Final Plats)**
- 16.22 Type II Permit Procedure (Non-SEPA-Exempt Building Permits)**
- 16.24 Type III Permit Procedure (Variances)**
- 16.26 Type IV Permit Procedure (Conditional Use Permits and Shoreline Permits)**
- 16.28 Type V Permit Procedure (Rezoning, Preliminary Plats, and Planned Unit Developments)**
- 16.30 Provisions Relevant to all Permits**
- 16.32 Legislative Actions**
- 16.34 Concurrency**
- 16.36 Variances**



**Chapter 16.02**

**Chapter 16.04**

**PURPOSE**

**DEFINITIONS**

Sections:

16.02.010 Purpose of provisions.

Sections:

16.04.010 Definitions.

**16.02.010 Purpose of provisions.**

The purpose of these development regulations (see PMC 16.06.010), and PMC Title 16 in particular, is to:

- A. Implement the comprehensive plan;
- B. Comply with regulatory reform legislation;
- C. Combine the environmental review process with the permit review process;
- D. Eliminate conflict, overlap, and duplication between the various permit processes;
- E. Standardize permit processes by type;
- F. Reduce the cost and time needed to obtain land use permits; and
- G. Make it easier for the public to comment on land use proposals. (Ord. 1505 § 4, 2001).

**16.04.010 Definitions.**

A. All definitions in PMC Titles 13 through 23 shall be deemed definitions for this Title 16.

B. "Building permit" means any permit issued by the building official, including plumbing permit, demolition permit, mechanical permit, and grading permit.

C. "Building official" means the city of Pacific building official, or city of Pacific building inspector if there is no building official, or his/her designee.

D. "Director" means the person so designated in PMC 16.06.040(A) or the director's designee. (Ord. 1505 § 4, 2001).

**Chapter 16.06**

**GENERAL PROVISIONS**

Sections:

- 16.06.010 Organization of these development regulations.
- 16.06.020 Relationship to other rules, regulations, and agreements.
- 16.06.030 Territorial applicability.
- 16.06.040 Director – Duties.
- 16.06.050 Appeals.

**16.06.010 Organization of these development regulations.**

A. The following PMC Titles 13 through 23 shall constitute the Pacific development regulations: PMC Title 13, Streets and Sidewalks; PMC Title 14, Water and Sewers; PMC Title 15, Public Utilities; PMC Title 16, Land Use and Environmental Procedures; PMC Title 17, Buildings and Construction; PMC Title 18, Reserved; PMC Title 19, Subdivisions; PMC Title 20, Zoning; PMC Title 21, Shorelines Management; PMC Title 22, Reserved; and PMC Title 23, Critical Areas.

B. The provisions of this title shall apply equally to all development regulations, PMC Titles 13 through 23. (Ord. 1505 § 4, 2001).

**16.06.020 Relationship to other rules, regulations, and agreements.**

These development regulations shall not abrogate or annul any other rule, regulation, covenant, or private agreement. Any rule, regulation, covenant, or private agreement which is more restrictive or imposes a higher standard than these development regulations shall govern. (Ord. 1505 § 4, 2001).

**16.06.030 Territorial applicability.**

These development regulations shall apply to all land within the city limits. To the extent possible under state law and inter-local agreements, these regulations shall also apply to all land outside the city limits and within the city’s urban growth area as established in the comprehensive plan. (Ord. 1505 § 4, 2001).

**16.06.040 Director – Duties.**

A. The mayor shall appoint the administrator of the development regulations, which person is hereafter referred to as “the director.”

B. The director shall interpret these development regulations, PMC Titles 13 through 23. For consistency of interpretation, the director shall render interpretations in writing and apply said interpretations to future instances having the same context. Administrative interpretations shall be communicated to the planning commission and city council for concurrence. (Ord. 1505 § 4, 2001).

**16.06.050 Appeals.**

All Type I or Type II decisions of the director may be appealed to the hearing examiner by submitting a written appeal and the appeal fee to the city clerk within 10 calendar days of the action. When an appeal period ends on a weekend or holiday, the appeal shall be accepted on the following working day. The fee for an appeal shall be as set by resolution. (Ord. 1512 § 2, 2001; Ord. 1505 § 4, 2001).

**Chapter 16.08****Chapter 16.10****FEES FOR CONSULTANT SERVICES****TEMPORARY PERMITS**

Sections:

16.08.010 Reimbursement for professional services.

Sections:

16.10.010 Purpose.  
16.10.020 Procedure.

**16.08.010 Reimbursement for professional services.**

Whenever any application is processed under these development regulations, and the director deems it necessary to retain professional consultants to assist in the processing, the applicant shall reimburse the city for the costs of the professional services. These professional services may include, but shall not be limited to, engineering, planning, legal, financial, accounting, and inspection services. The city shall require the applicant to deposit an amount to cover anticipated costs of retaining professional consultants. The deposit may include a nonrefundable base deposit for administrative costs. Fees and deposits shall be established by resolution. The city shall require additional deposits when the initial deposit is exhausted. (Ord. 1505 § 4, 2001).

**16.10.010 Purpose.**

The purpose of temporary permits is to allow temporary uses and construction activities which nominally do not conform with this code, but which meet certain criteria. Examples, which may qualify, include contractors' offices for activities within the city, construction site activities, and emergency responses. (Ord. 1505 § 4, 2001).

**16.10.020 Procedure.**

A. The application form shall establish the submittal requirements, which shall include a site plan.

B. Temporary permits shall not be issued unless the director finds that, based on the duration of the permit and conditions imposed:

1. Implementation of neither the comprehensive plan nor the purposes of these development regulations will suffer;

2. The public health, safety, and general welfare will not suffer; and

3. The temporary use or construction activity conforms to these development regulations so far as possible consistent with the need for a temporary permit.

C. In no case shall the duration of a temporary permit exceed one year; however, the director may renew a temporary permit, provided its total duration does not exceed two years, with the exception of those properties fronting the Stewart Road/8th Street corridor, prior to the completion of the project, those properties are eligible for additional one-year extensions.

D. A construction office for which a temporary permit has been granted shall not also require a building permit provided it has the Washington State Department of Labor and Industries black label. (Black label construction offices are not intended for visitation by the general public.)

**16.12.010**

E. PMC 20.84.110 shall govern temporary signs. (Ord. 1531 § 1, 2002; Ord. 1505 § 4, 2001).

**Chapter 16.12**

**LEGAL NONCONFORMING USES**

Sections:

- 16.12.010 Continuation.
- 16.12.020 Signs.
- 16.12.030 Change of tenancy.
- 16.12.040 Restoration.
- 16.12.050 Nuisances.

**16.12.010 Continuation.**

Uses, structures, or improvements which were legal upon their initiation, but which do not conform to development regulations subsequently enacted, may continue only if the nonconforming use:

A. Is not enlarged or extended in a manner which increases or reinforces its degree of nonconformity;

B. Is not physically changed other than normal and necessary operation, maintenance, and repair, and the cost of repair does not exceed 25 percent of King or Pierce County's assessed value of the structure when the work is undertaken;

C. Is kept in good repair and is not a safety hazard; and

D. Has never ceased for a continuous period of 180 days or more. (Ord. 1505 § 4, 2001).

**16.12.020 Signs.**

In the case of nonconforming signs, a change in the name or nature of the business conducted on the premises shall constitute a change in use. (Ord. 1505 § 4, 2001).

**16.12.030 Change of tenancy.**

Change of tenancy, ownership, or management shall not affect legal nonconforming status. (Ord. 1505 § 4, 2001).

**16.12.040 Restoration.**

A. Except as provided in subsection B of this section, a nonconforming building or structure having been damaged by fire, flood, explosion, wind, earthquake, war, riot or other disaster may be restored only if the cost of the restoration does not exceed 50 percent of the

assessed valuation of the building or structure at the time of the disaster, excluding the foundations.

B. A single-family residence or accessory building thereto, nonconforming by virtue of not being permitted in any commercial zone in which it is located, having been damaged or totally destroyed, may be restored provided the restoration commences within 12 months from the date of the destruction and is diligently completed. The restored structure shall conform to the applicable height and parking regulations, and may be built on the original foundation footprint. (Ord. 1505 § 4, 2001).

#### **16.12.050 Nuisances.**

The foregoing notwithstanding, nuisances as defined by state law shall not enjoy legal nonconforming status. (Ord. 1505 § 4, 2001).

## **Chapter 16.14**

### **ENFORCEMENT**

Sections:

- 16.14.010 Performance bond.
- 16.14.020 Violations enlarged.
- 16.14.030 Enforcement procedure.
- 16.14.040 Penalty.

#### **16.14.010 Performance bond.**

The city may require, as a condition of any permit approval, the posting of a cash performance bond or other security sufficient to fulfill the requirements of these development regulations and any conditions upon which the permit is granted. (Ord. 1505 § 4, 2001).

#### **16.14.020 Violations enlarged.**

A. In addition to other violations of these development regulations, it shall be a violation of these development regulations to:

1. Proceed with a development that requires a permit without first obtaining the permit;
2. Violate any condition of approval of a permit issued pursuant to these development regulations;
3. Violate any order issued pursuant to these development regulations;
4. Aid or abet a violation of these development regulations;
5. Knowingly make a false statement in any document required by these development regulations; or
6. Falsify or tamper with any monitoring device, record, or methodology required in the administration of these development regulations.

B. Each day of violation shall constitute a separate offense. (Ord. 1505 § 4, 2001).

#### **16.14.030 Enforcement procedure.**

A. Upon good cause, or upon filing by any person of a written complaint of violation of these development regulations, the director shall investigate.

B. Prior to entering premises for the purpose of such investigation, the director shall either obtain the tenant's or owner's permis-

## 16.14.040

sion to enter, or shall obtain a search warrant. With respect to the building official, these rules regarding entry shall yield to any conflicting rules in the Uniform Building Code.

C. If a violation exists, the director shall notify the tenant or owner by mail or by personal service. The notice shall contain the violation, the penalty, the prescribed remedial actions, and a reasonable time period for remedial action.

D. If the time period lapses without remedial action, the director may:

1. Initiate injunctions and restraining orders;
2. Issue stop work orders and orders to mitigate environmental damages resulting from violations;
3. Revoke permits or licenses relating to the use of the subject property;
4. Collect penalties;
5. Physically abate the violation or remedy environmental damage at the violator's expense; and/or
6. Initiate any other civil or criminal action available by law. (Ord. 1505 § 4, 2001).

### 16.14.040 Penalty.

A. Violation of these development regulations may result in a misdemeanor, which shall be punishable as set forth in the Pacific Municipal Code, and/or may result in a civil offense punishable by a penalty sufficient to:

1. Neutralize any profit enjoyed by the violator as a result of the violation;
2. Positively discourage further violations; and
3. Make the public whole for damages suffered as a result of the violation, including environmental damages.

B. In addition to the penalty, the violator shall reimburse the city for all documented or reasonable expenses incurred in enforcement and legal proceedings.

C. Orders and penalties issued pursuant to this subsection may be appealed as provided in PMC 16.06.050. (Ord. 1505 § 4, 2001).

## Chapter 16.16

### STATE ENVIRONMENTAL POLICY ACT

Sections:

- 16.16.010 Adoption by reference of Chapter 197-11 WAC.
- 16.16.020 Designation of responsible official.
- 16.16.030 Information sufficient to initiate environmental review.
- 16.16.040 Categorical exemptions.
- 16.16.050 Applicant shall fill out environmental checklist.
- 16.16.060 Mitigated determinations of nonsignificance (MDNS).
- 16.16.070 Financial burden for preparation and circulation of environmental impact statement (EIS).
- 16.16.080 Substantive authority.

#### 16.16.010 Adoption by reference of Chapter 197-11 WAC.

Pursuant to the State Environmental Policy Act (SEPA), RCW 43.21C.120, the city hereby adopts Chapter 197-11 WAC by reference. (Ord. 1505 § 4, 2001).

#### 16.16.020 Designation of responsible official.

Reference WAC 197-11-910. The director, per PMC 16.06.040, shall administer this chapter. To that end, other city officials initiating physical works shall notify and coordinate with the director. (Ord. 1505 § 4, 2001).

#### 16.16.030 Information sufficient to initiate environmental review.

Reference WAC 197-11-055(4). Environmental review may begin whenever, in the opinion of the director, sufficient information exists to reasonably assess the environmental impact of a proposal. (Ord. 1505 § 4, 2001).

#### 16.16.040 Categorical exemptions.

A. Per WAC 197-11-800(1)(c), the city of Pacific hereby raises the exemption levels making the following exempt from threshold determinations and EIS requirements:



1. The construction or location of any residential structures of four dwelling units;

2. The construction of an office, school, commercial, recreational, service or storage building with 12,000 square feet of gross floor area, and with associated parking facilities designed for 40 automobiles;

3. The construction of a parking lot designed for 40 automobiles; and

4. Any landfill or excavation of 400 cubic yards throughout the total lifetime of the fill or excavation.

B. Per WAC 197-11-908, minor new construction as listed in WAC 197-11-800(1) shall not be exempt from threshold determinations and EIS requirements if said construction is entirely or partly on one or more critical areas as designated in PMC Title 23, Critical Areas Management. (Ord. 1505 § 4, 2001).

**16.16.050 Applicant shall fill out environmental checklist.**

Reference WAC 197-11-315. The applicant shall fill out the environmental checklist and pay the city the fee set by resolution for review of environmental checklists. (Ord. 1505 § 4, 2001).

**16.16.060 Mitigated determinations of nonsignificance (MDNS).**

All mitigation measures incorporated in a mitigated DNS shall be deemed conditions of approval of the pertinent permit decision. (Ord. 1505 § 4, 2001).

**16.16.070 Financial burden for preparation and circulation of environmental impact statement (EIS).**

Reference WAC 197-11-504(2). The applicant shall pay all costs associated with preparation and circulation of EISs, under the director's supervision. The city may offset these costs by charging nongovernmental entities for copies of any documents prepared under this section. The EIS may be prepared by the city or a qualified consultant, at the discretion of the director, but in most cases will be prepared by a consultant. The city shall obtain three consultant proposals with cost estimates

for the EIS preparation and shall be the contractor for the preparation of the EIS. The applicant may select one of the proposals/estimates for the EIS preparation. (Ord. 1505 § 4, 2001).

**16.16.080 Substantive authority.**

The city may condition or deny a permit application, even though it may conform to these development regulations, as necessary to mitigate environmental impact pursuant to WAC 197-11-660; provided, said condition or denial is based on the comprehensive plan or the agency responsibilities established by RCW 43.21C.020(2), which are hereby adopted by reference. (Ord. 1505 § 4, 2001).

**Chapter 16.18**

**CLASSIFICATION OF PERMITS  
BY TYPE**

- I. Temporary permits;
- J. Legislative actions other than individual rezones. (Ord. 1505 § 4, 2001).

Sections:

- 16.18.010 Classification.
- 16.18.020 Exemptions.

**16.18.010 Classification.**

- A. Exempt Permits. See PMC 16.18.020.
- B. Type I permits are permits other than building permits which require neither an environmental checklist nor a public hearing, as follows: short plats and final plat approvals.
- C. Type II permits are those which require an environmental checklist, but not a public hearing, as follows: non-SEPA-exempt building permits.
- D. Type III permits are those which do not require an environmental checklist but do require a public hearing, as follows: variances.
- E. Type IV permits are those which require both an environmental checklist and a public hearing, and for which the hearing examiner makes the final decision, as follows: conditional use permits and shoreline permits.
- F. Type V permits are those which require both an environmental checklist and a public hearing, and for which the city council makes the final decision, as follows: rezones, preliminary plats, and planned unit development permits. (Ord. 1505 § 4, 2001).

**16.18.020 Exemptions.**

The following actions are not Type I through V permits, and are exempt from PMC Chapters 16.18 through 16.30:

- A. SEPA-exempt building, mobile home, plumbing, demolition, mechanical, excavation and grading, and sign permits;
- B. All city licenses;
- C. Permits to drive overweight vehicles;
- D. Right-of-way permits;
- E. Permits to connect to city sanitary sewer, storm sewer, or water;
- F. Street vacations;
- G. Minor approvals relating to the use of public properties;
- H. Boundary line adjustments;

**Chapter 16.20****TYPE I PERMIT PROCEDURE  
(SHORT PLATS AND FINAL PLATS)**

## Sections:

- 16.20.010 Pre-application conference.
- 16.20.020 Application.
- 16.20.030 Determination of completeness.
- 16.20.040 Decision.
- 16.20.050 Appeals.

**16.20.010 Pre-application conference.**

The director may require a potential applicant to participate in a pre-application conference. (Ord. 1505 § 4, 2001).

**16.20.020 Application.**

The applicant shall complete the appropriate application forms and submit application and fee to the director. The application form will establish the necessary information. Fees shall be set by resolution. (Ord. 1505 § 4, 2001).

**16.20.030 Determination of completeness.**

A. Within 20 working days of submittal, the director shall send the applicant either a determination of completeness or a notice stating information required to complete the application.

B. Within 14 working days of submittal of additional information as required above, the director shall send the applicant either a determination of completeness or another notice stating information required to complete the application. (Ord. 1505 § 4, 2001).

**16.20.040 Decision.**

The director may determine whether the application is consistent with these development regulations, act on the application accordingly, and may notify the applicant within 120 days of determination of completeness. For final plats the city council shall take action instead of the director. The rules embodied in RCW 36.70B.090 shall constitute exceptions to this 120-day deadline. No notice of decision need be published. (Ord. 1505 § 4, 2001).

**16.20.050 Appeals.**

Any action of the director may be appealed to the hearing examiner in accordance with PMC 16.06.050, Appeals. (Ord. 1512 § 3, 2001; Ord. 1505 § 4, 2001).

**Chapter 16.22**

**TYPE II PERMIT PROCEDURE (NON-SEPA-EXEMPT BUILDING PERMITS)**

Sections:

- 16.22.010 Application.
- 16.22.020 Determination of completeness.
- 16.22.030 Threshold determination and notice of application.
- 16.22.040 Decision and notice of decision.
- 16.22.050 Appeal.

**16.22.010 Application.**

The applicant shall complete the appropriate application form and submit application, environmental checklist, and applicable fees to the director. The application form will establish the necessary information. (Ord. 1505 § 4, 2001).

**16.22.020 Determination of completeness.**

A. Within 20 working days of submittal, the director shall:

1. Send the applicant either a determination of completeness or a notice stating information required to complete the application; and

2. Advise the applicant of other agencies that may have jurisdiction over the proposal.

B. Within 14 working days of submittal of additional information as required above, the director shall send the applicant either a determination of completeness or another notice stating information required to complete the application. (Ord. 1505 § 4, 2001).

**16.22.030 Threshold determination and notice of application.**

Within 14 working days of determination of completeness of an application, the director shall perform items A and B of this section.

A. Perform a threshold determination regarding the proposal in accordance with Chapter 197-11 WAC, Part Three.

B. Publish a notice of application in accordance with PMC 16.30.030.

1. The notice of application shall include the information required in RCW 36.70B.110(2).

2. The public comment period shall be 15 calendar days.

3. If a determination of significance (DS) has been issued, the “notice of application/hearing” shall incorporate the DS and scoping notice. If other agencies share jurisdiction over the proposal, they shall also receive the “notice of application/hearing/DS/scoping.”

4. If WAC 197-11-340(2) applies (that is, city cannot take final action until 15 calendar days after issuing a determination of non-significance, or DNS), the director shall also send the “notice of application/DNS” and environmental checklist to the agencies listed in WAC 197-11-340(2). (Ord. 1505 § 4, 2001).

**16.22.040 Decision and notice of decision.**

A. After the above procedures have been completed, including environmental review, and within 120 days of determination of completeness, the director or building official shall determine whether the application is consistent with these development regulations, act on the application accordingly, and issue a notice of decision.

B. The rules embodied in RCW 36.70B.090 shall constitute exceptions to the 120-day deadline. Days during which an EIS is being prepared do not count against the 120 days.

C. The notice of decision shall contain a statement of threshold determination and the procedures for administrative appeal.

D. The notice of decision shall be published in accordance with PMC 16.30.030.

E. If a development proposal requires both a Type II permit and a Type III, IV, or V permit, the 120 days within which a notice of decision must be issued shall not begin until the Type III, IV, or V permit has been issued. (Ord. 1505 § 4, 2001).

**16.22.050 Appeal.**

A. Decisions of the director may be appealed to the hearing examiner in accordance with PMC 16.06.050.

B. Decisions of the building official may, within 10 calendar days of the decision, be

administratively appealed in accordance with Section 105 of the Uniform Building Code. (Ord. 1512 § 4, 2001; Ord. 1505 § 4, 2001).

**Chapter 16.24**

**TYPE III PERMIT PROCEDURE  
(VARIANCES)**

Sections:

- 16.24.010 Application.
- 16.24.020 Determination of completeness.
- 16.24.030 Scheduling of hearing and publication of notice.
- 16.24.040 Hearing before hearing examiner.
- 16.24.050 Findings.
- 16.24.060 Decision.
- 16.24.070 Notice of decision.
- 16.24.080 No administrative appeal.

**16.24.010 Application.**

The applicant shall complete the appropriate application form and submit application and fee to the director. The application form will establish the necessary information. Fees shall be set by resolution. (Ord. 1505 § 4, 2001).

**16.24.020 Determination of completeness.**

A. Within 20 working days of submittal, the director shall:

1. Send the applicant either a determination of completeness or a notice stating information required to complete the application; and
2. Advise the applicant of other agencies that may have jurisdiction over the proposal.

B. Within 14 working days of submittal of additional information as required above, the director shall send the applicant either a determination of completeness or another notice stating information required to complete the application. (Ord. 1505 § 4, 2001).

**16.24.030 Scheduling of hearing and publication of notice.**

Within 14 working days of determination of completeness the director shall:

- A. Determine on what date the notice of application will be published;
- B. Schedule a hearing before the hearing examiner for a date between 10 and 30 working days after the date of publication; and
- C. Publish a notice of application/hearing in accordance with PMC 16.30.030. The

## 16.24.040

notice shall include the information required in RCW 36.70B.110(2). (Ord. 1505 § 4, 2001).

### 16.24.040 Hearing before hearing examiner.

The hearing examiner shall hold the public hearing. (Ord. 1505 § 4, 2001).

### 16.24.050 Findings.

The hearing examiner shall adopt written findings referencing the applicable permit criteria. (Ord. 1505 § 4, 2001).

### 16.24.060 Decision.

The hearing examiner shall decide on the proposal in accordance with its findings. The decision shall be early enough to allow the director to comply with the following section regarding notice of decision. (Ord. 1505 § 4, 2001).

### 16.24.070 Notice of decision.

A. Within 120 days of the determination of completion, the director shall issue a notice of decision.

B. The rules embodied in RCW 36.70B.090 shall constitute exceptions to this 120-day deadline.

C. The notice of decision shall be published in accordance with PMC 16.30.030. (Ord. 1505 § 4, 2001).

### 16.24.080 No administrative appeal.

Variances may not be administratively appealed. Judicial review of variances is available pursuant to RCW 36.70C.040. (Ord. 1505 § 4, 2001).

## Chapter 16.26

### TYPE IV PERMIT PROCEDURE (CONDITIONAL USE PERMITS AND SHORELINE PERMITS)

Sections:

- 16.26.010 Pre-application conference.
- 16.26.020 Application.
- 16.26.030 Determination of completeness.
- 16.26.040 Threshold determination, scheduling of hearing, and notice.
- 16.26.050 Director shall forward.
- 16.26.060 Hearing.
- 16.26.070 Findings and decision.
- 16.26.080 Notice of decision.
- 16.26.090 Appeal.

### 16.26.010 Pre-application conference.

The director may require a potential applicant to participate in a pre-application conference. (Ord. 1505 § 4, 2001).

### 16.26.020 Application.

The applicant shall complete the appropriate application form, and submit application, fee, and an environmental checklist, to the director. The application form will establish the necessary information. (Ord. 1505 § 4, 2001).

### 16.26.030 Determination of completeness.

A. Within 20 working days of submittal, the director shall:

1. Send the applicant either a determination of completeness or a notice stating information required to complete the application; and

2. Advise the applicant of other agencies that may have jurisdiction over the proposal.

B. Within 14 working days of submittal of additional information as required above, the director shall send the applicant either a determination of completeness or another notice stating information required to complete the application. (Ord. 1505 § 4, 2001).

**16.26.040 Threshold determination, scheduling of hearing, and notice.**

Within 14 working days of determination of completeness of an application, the director shall perform items A through D of this section.

A. Perform a threshold determination regarding the proposal in accordance with Chapter 197-11 WAC, Part Three.

B. Determine on what date the notice of application will be published.

C. Schedule a hearing before the hearing examiner for a date between 15 and 30 working days after the publication of notice of application, except that if a determination of significance (DS) has been issued, the hearing may be scheduled and publicized later to allow time to prepare the draft environmental impact statement (DEIS).

D. Publish a notice of application/hearing in accordance with PMC 16.30.030.

1. The “notice of application/hearing” shall include the information required in RCW 36.70B.110(2).

2. The public comment period shall be at least 15 calendar days.

3. If a determination of significance (DS) has been issued, the “notice of application/hearing” shall incorporate the DS and scoping notice. If other agencies share jurisdiction over the proposal, they shall also be sent the “notice of application/hearing/DS/scoping.”

4. If WAC 197-11-340(2) applies (that is, city cannot take final action until 15 calendar days after issuing a determination of non-significance (DNS)), the director shall also send the “notice of application/hearing/DNS” and environmental checklist to the agencies listed in WAC 197-11-340(2). If timely comments are received, the director shall reconsider the DNS in accordance with WAC 197-11-340(2)(f) and (3). (Ord. 1505 § 4, 2001).

**16.26.050 Director shall forward.**

The director shall forward to the hearing examiner the results of the proposal’s environmental review, including copies of the draft

and final EIS, if applicable. (Ord. 1505 § 4, 2001).

**16.26.060 Hearing.**

The hearing examiner shall hold the hearing, which may be combined with that of another agency with jurisdiction. (Ord. 1505 § 4, 2001).

**16.26.070 Findings and decision.**

After the above, the hearing examiner shall:

A. Adopt written findings referencing the applicable permit criteria; and

B. Make a decision consistent with those findings early enough to allow the director to comply with the following section regarding notice of decision. The decision may be by motion except for rezones, which must be adopted by ordinance. (Ord. 1505 § 4, 2001).

**16.26.080 Notice of decision.**

A. Within 120 days of the determination of completion, the director shall issue a notice of decision.

B. The rules embodied in RCW 36.70B.090 shall constitute exceptions to this 120-day deadline. Days during which an EIS is being prepared do not count against the 120 days.

C. The notice of decision shall contain a statement of threshold determination.

D. The notice of decision shall be published in accordance with PMC 16.30.030. (Ord. 1505 § 4, 2001).

**16.26.090 Appeal.**

A. Decisions of the hearing examiner may not be administratively appealed. Judicial review of variances is available pursuant to RCW 36.70C.040.

B. No building permit reliant upon a Type IV permit shall be issued until the Type IV permit’s appeal period has lapsed. (Ord. 1512 § 5, 2001; Ord. 1505 § 4, 2001).

**Chapter 16.28**

**TYPE V PERMIT PROCEDURE  
(REZONES, PRELIMINARY PLATS,  
AND PLANNED UNIT  
DEVELOPMENTS)**

Sections:

- 16.28.010 Pre-application conference.
- 16.28.020 Application.
- 16.28.030 Determination of completeness.
- 16.28.040 Threshold determination, scheduling of hearing, and notice.
- 16.28.050 Director shall forward.
- 16.28.060 Hearing.
- 16.28.070 Findings and recommendation.
- 16.28.080 Council decision.
- 16.28.090 Notice of decision.
- 16.28.100 Appeal.
- 16.28.110 Rezones and annexations.

**16.28.010 Pre-application conference.**

The director may require a potential applicant to participate in a pre-application conference. (Ord. 1505 § 4, 2001).

**16.28.020 Application.**

The applicant shall complete the appropriate application form, and submit application, fee, and an environmental checklist, to the director. The application form will establish the necessary information. (Ord. 1505 § 4, 2001).

**16.28.030 Determination of completeness.**

A. Within 20 working days of submittal, the director shall:

- 1. Send the applicant either a determination of completeness or a notice stating information required to complete the application; and
- 2. Advise the applicant of other agencies that may have jurisdiction over the proposal.

B. Within 14 working days of submittal of additional information as required above, the director shall send the applicant either a determination of completeness or another notice stating information required to complete the application. (Ord. 1505 § 4, 2001).

**16.28.040 Threshold determination, scheduling of hearing, and notice.**

Within 14 working days of determination of completeness of an application, the director shall perform items A through D of this section.

A. Perform a threshold determination regarding the proposal in accordance with Chapter 197-11 WAC, Part Three.

B. Determine on what date the notice of application will be published.

C. Schedule a hearing before the hearing examiner for a date between 15 and 30 working days after the publication of notice of application, except that if a determination of significance (DS) has been issued, the hearing may be scheduled and publicized later to allow time to prepare the draft environmental impact statement (DEIS).

D. Publish a notice of application/hearing in accordance with PMC 16.30.030.

1. The “notice of application/hearing” shall include the information required in RCW 36.70B.110(2).

2. The public comment period shall be at least 15 calendar days.

3. If a determination of significance (DS) has been issued, the “notice of application/hearing” shall incorporate the DS and scoping notice. If other agencies share jurisdiction over the proposal, they shall also be sent the “notice of application/hearing/DS/scoping.”

4. If WAC 197-11-340(2) applies (that is, city cannot take final action until 15 calendar days after issuing a determination of non-significance, or DNS), the director shall also send the “notice of application/hearing/DNS” and environmental checklist to the agencies listed in WAC 197-11-340(2). If timely comments are received, the director shall reconsider the DNS in accordance with WAC 197-11-340(2)(f) and (3). (Ord. 1505 § 4, 2001).

**16.28.050 Director shall forward.**

The director shall forward to the hearing examiner the results of the proposal’s environmental review, including copies of the draft



and final EIS, if applicable. (Ord. 1505 § 4, 2001).

#### **16.28.060 Hearing.**

The hearing examiner shall hold the hearing, which may be combined with that of another agency with jurisdiction. (Ord. 1505 § 4, 2001).

#### **16.28.070 Findings and recommendation.**

After the above, the hearing examiner shall:

A. Adopt written findings referencing the applicable permit criteria; and

B. Make a recommendation consistent with those findings. (Ord. 1505 § 4, 2001).

#### **16.28.080 Council decision.**

The city council shall revise the hearing examiner's findings, if necessary, and decide on the proposal accordingly. Its decision shall be early enough to allow the director to comply with the following section regarding notice of decision. Council decision may be by simple motion for permits but must be by ordinance for rezones, which are legislative. (Ord. 1505 § 4, 2001).

#### **16.28.090 Notice of decision.**

A. Within 120 days of the determination of completion, the director shall issue a notice of decision.

B. The rules embodied in RCW 36.70B.090 shall constitute exceptions to this 120-day deadline. Days during which an EIS is being prepared do not count against the 120 days.

C. The notice of decision shall contain a statement of threshold determination.

D. The notice of decision shall be published in accordance with PMC 16.30.030. (Ord. 1505 § 4, 2001).

#### **16.28.100 Appeal.**

Type V permit decisions may not be administratively appealed. Judicial review is available pursuant to RCW 36.70C.040. (Ord. 1505 § 4, 2001).

#### **16.28.110 Rezones and annexations.**

A. Rezones are legislative actions, not land use permits. However, individual rezones are quasi-judicial actions, and as such shall be processed as if they were Type V permits. Individual rezones may be initiated by the planning commission, the city council, or anyone with ownership interest in the land. The criterion for granting rezones shall be conformance to the comprehensive plan.

B. Area-wide rezones are not quasi-judicial, and shall be processed as legislative actions per Chapter 16.32 PMC.

C. Annexations shall also be processed like Type V permits, to the extent that zoning is established in the annexation process, provided that the annexation's zoning shall be in compliance with the comprehensive plan. (Ord. 1505 § 4, 2001).

**Chapter 16.30**

**PROVISIONS RELEVANT TO ALL PERMITS**

Sections:

- 16.30.010 Designated permit coordinator.
- 16.30.020 Consolidation of permits.
- 16.30.030 Method of publication.
- 16.30.040 Permit conditions.
- 16.30.050 Assignment of permits.
- 16.30.060 Permit expiration.
- 16.30.070 All aspects of the application are binding.
- 16.30.080 Minor changes.
- 16.30.090 Time deadlines falling on non-business days.
- 16.30.100 Minor procedural errors shall not invalidate proceedings.
- 16.30.110 Stay of further permits in the event of appeal.

**16.30.010 Designated permit coordinator.**

The director, or the director’s designee, shall be the designated permit coordinator pursuant to RCW 36.70B.120(1) for all permits subject to these development regulations. (Ord. 1505 § 4, 2001).

**16.30.020 Consolidation of permits.**

If a proposal requires more than one permit, all permits shall be consolidated, as follows.

A. Such information as name, address, and legal description need only be entered once, by such means as a master permit application form or master cover sheet.

B. Reports, hearings, notices, recommendations, and decisions shall address the project as a whole except where expediency requires otherwise, such as where the proponent requires one authorization before another.

C. Appeals of more than one of the permits required for a project shall be consolidated in a single appeal, to the extent that the appeals bodies are identical.

D. The director shall utilize the process of that permit type which includes all reviews required for the various permits, and no more, provided that the official or body holding any hearing, making any decision, or hearing any

appeal shall not change as a result. (Ord. 1505 § 4, 2001).

**16.30.030 Method of publication.**

A. All notices required by these development regulations shall include the proposed action, the general location of the property, and such other information as the director deems necessary. Notices of hearing shall be published at least 10 days prior to the hearing, and shall include the time, place, and purpose of such hearing.

B. The applicant shall bear all publication costs.

C. Notices of application, hearing, and/or declaration of significance/scoping shall be:

1. Mailed by first-class mail to the applicant and all owners of property within 300 feet of any portion of the proposed action according to the latest available county assessment roll (in measuring distance, public rights-of-way other than the SR 167 right-of-way shall not be included);

2. Posted on the development site, at the location(s) which the director deems best suited to reach the attention of whoever may be affected, on city-produced sign(s) containing a heading such as “Public Notice – Proposed Land Use Development Action”;

3. Posted on bulletin boards designated for land use notices; and

4. Published in the officially designated newspaper.

D. Notices of decision shall be:

1. Mailed to the applicant, the county assessor, and anyone who, prior to the decision, requested notice of the decision, or submitted substantive comments on the application;

2. Posted on the development site on the same city sign(s) on which was posted the previous notice(s); and

3. Posted on bulletin boards designated for land use notices. (Ord. 1505 § 4, 2001).

**16.30.040 Permit conditions.**

In granting a permit, the grantor may attach thereto such conditions as necessary to make the permit compatible with the criteria applicable to that permit. (Ord. 1505 § 4, 2001).

**16.30.050 Assignment of permits.**

Development permits shall run with the land and be freely assignable. (Ord. 1505 § 4, 2001).

**16.30.060 Permit expiration.**

A. This section applies to all permits except those based on the Uniform Building Code, which has its own expiration provisions.

B. Permits shall expire two years after the date of issuance if substantial progress has not been made toward realizing the permitted use or project, or within three years if construction has not been completed.

C. The body charged with granting the permit may extend the date of permit expiration for one year upon request by the applicant prior to said permit's expiration. (Ord. 1505 § 4, 2001).

**16.30.070 All aspects of the application are binding.**

All aspects of the application are binding, including graphic representations such as site plans, building elevations, and related required materials. (Ord. 1505 § 4, 2001).

**16.30.080 Minor changes.**

The director may approve minor changes to the permitted proposal that do not create any additional lots or impacts; provided, those changes are so insignificant that, in the director's judgment, the changes would not have affected the decision of the original decision-makers; and provided, that the proposal still complies with these development regulations. More substantial changes shall require a new permit. (Ord. 1505 § 4, 2001).

**16.30.090 Time deadlines falling on non-business days.**

Any time deadline established by this title that falls on a day in which the Pacific City Hall is closed shall extend to the next business day. (Ord. 1505 § 4, 2001).

**16.30.100 Minor procedural errors shall not invalidate proceedings.**

Minor inaccuracies in permit procedures, such as minor inaccuracies in any public

notice, shall not invalidate a permit proceeding. (Ord. 1505 § 4, 2001).

**16.30.110 Stay of further permits in the event of appeal.**

A. When any city action taken pursuant to these development regulations is administratively appealed, the director may stay further permit issuances for the use or improvement to which the appeal relates until the appeal has been settled.

B. When any city action taken pursuant to these development regulations appears likely to be judicially appealed, or has been judicially appealed, the director may stay further permit issuances for the use or improvement to which the appeal relates until the appeals period has lapsed and the appeal, if any, has been settled. (Ord. 1505 § 4, 2001).

**Chapter 16.32**

**LEGISLATIVE ACTIONS**

Sections:

- 16.32.010 Rezones.
- 16.32.020 Initiation.
- 16.32.030 Comprehensive plan amendments.
- 16.32.040 Threshold determination, scheduling of hearing, and notice.
- 16.32.050 Director shall forward environmental review information.
- 16.32.060 Hearing.
- 16.32.070 Findings and recommendation.
- 16.32.080 Council action.

**16.32.010 Rezones.**

See Type V permits. (Ord. 1505 § 4, 2001).

**16.32.020 Initiation.**

The planning commission, city council, or staff may initiate amendments to the city’s comprehensive plan or development regulations. (Ord. 1505 § 4, 2001).

**16.32.030 Comprehensive plan amendments.**

A. The Pacific comprehensive plan may be amended no more than once per year, provided that this limitation shall not apply to the capital facilities element thereof.

B. Anyone may request an amendment to the comprehensive plan utilizing a form provided by the director. The fee shall be as set by resolution. The director shall verify completeness and log complete requests.

C. Complete requests for amendments to the comprehensive plan received by the close of business on July 31, 2001, shall be processed during the remainder of 2001 in accordance with PMC 16.32.040 through 16.32.080. Thereafter, complete requests for amendments to the comprehensive plan received by the close of business on December 31st of a given year shall be processed during the following calendar year in accordance with PMC 16.32.040 through 16.32.080. (Ord. 1505 § 4, 2001).

**16.32.040 Threshold determination, scheduling of hearing, and notice.**

Once a proposed amendment to the comprehensive plan or development regulations has been drafted, the director shall perform subsections A through D of this section.

A. Perform a threshold determination regarding the proposal.

B. Determine on what date the notice of hearing will be published.

C. Schedule a hearing before the planning commission for a date between 15 and 30 working days after the publication of notice of hearing, except that if a determination of significance (DS) has been issued, the hearing may be scheduled and publicized later to allow time to prepare the draft environmental impact statement (DEIS).

D. Publish a notice of hearing in the official newspaper of general circulation in the city.

1. If a DS has been issued, the notice of hearing shall incorporate the DS and scoping notice. If other agencies share jurisdiction over the proposal, they shall also be sent the notice of hearing/DS/scoping.

2. If WAC 197-11-340(2) applies (that is, city cannot take final action until 15 calendar days after issuing a determination of non-significance, or (DNS), the director shall also send the notice of hearing/DNS and environmental checklist to the agencies listed in WAC 197-11-340(2). (Ord. 1505 § 4, 2001).

**16.32.050 Director shall forward environmental review information.**

The director shall inform the planning commission and city council of the results of the proposal’s environmental review. If a determination of significance was issued, the director shall distribute copies of the draft and final EIS to the planning commission and city council. (Ord. 1505 § 4, 2001).

**16.32.060 Hearing.**

The planning commission shall hold a hearing, which may be at a joint meeting of the planning commission and city council at the

discretion of the city council. (Ord. 1505 § 4, 2001).

**16.32.070 Findings and recommendation.**

The planning commission shall adopt written findings and make a recommendation consistent with those findings to the city council. (Ord. 1505 § 4, 2001).

**16.32.080 Council action.**

The city council, if it elects to amend the comprehensive plan or development regulations, shall revise the findings if necessary and adopt said amendments by ordinance. (Ord. 1505 § 4, 2001).

**Chapter 16.34**

**CONCURRENCY**

Sections:

- 16.34.010 Purpose.
- 16.34.020 Definitions.
- 16.34.030 Applicability – Concurrency facilities.
- 16.34.040 Applicability – Developments.
- 16.34.050 Concurrency check.
- 16.34.060 Relationship to impact fees.

**16.34.010 Purpose.**

The purpose of this chapter is to ensure that facilities needed to maintain minimum level of service standards are provided simultaneously with, or within a reasonable time after, development occupancy as required by the State Growth Management Act, Chapter 36.70A RCW. (Ord. 1505 § 4, 2001).

**16.34.020 Definitions.**

“Concurrency” means that, based on the schedule of improvements in the appropriate element of the comprehensive plan, each concurrency facility will have capacity to serve the development at time of occupancy, or reasonably soon thereafter, while maintaining the level of service standard.

“Concurrency check” means the comparison of a development’s impact on concurrency facilities to the respective facility’s existing and planned capacity.

“Concurrency facilities” means public facilities for which this chapter requires concurrency.

“Developer” means anyone who engages in development.

“Development” means any construction or expansion of a building or structure, or change of land use, that creates additional demand for public facilities.

“Development permit” means a building permit, conditional use permit, preliminary plat, rezone, shoreline permit, short plat, or other land use permit.

“Facilities” means land, buildings, structures, and equipment.

### 16.34.030

“Level of service (LOS) standard” means the city’s minimum service standard for any of several public facilities, as established in the comprehensive plan. (Ord. 1505 § 4, 2001).

#### 16.34.030 Applicability – Concurrency facilities.

The concurrency requirement shall apply to streets, water, and sanitary sewer. (Ord. 1505 § 4, 2001).

#### 16.34.040 Applicability – Developments.

All developments are subject to a concurrency check except:

- A. Actions or permits which are categorically exempt from SEPA;
- B. Developments which create no additional impact on any concurrency facility;
- C. Replacements or renovations of structures which do not intensify or increase the land use;
- D. Temporary structures;
- E. Paving, landscaping, lighting, fencing, or signs;
- F. Demolitions;
- G. Developments for which complete permit applications were submitted before the effective date of the ordinance codified in this section. (Ord. 1505 § 4, 2001).

#### 16.34.050 Concurrency check.

A. Concurrency shall be verified prior to issuance of any city of Pacific development permit.

B. The director shall administer this chapter and shall consult with the respective city departments or facility providers as necessary to check for concurrency and account for available and committed capacity.

C. If concurrency can not be verified, the developer may modify the development to reduce the need for concurrency facilities or arrange with the facility provider for capacity to be increased.

D. Verifications of concurrency shall run with the land and are not transferable to other developments or other properties.

E. A verification of concurrency shall expire if the accompanying development permit or facility connection agreement expires.

F. If the accompanying development permit or facility connection agreement expires, or if the developer withdraws their application, the committed facility capacity shall be returned to the pool of available capacity. (Ord. 1505 § 4, 2001).

#### 16.34.060 Relationship to impact fees.

The payment of impact fees does not guarantee concurrency, and shall not substitute for a verification of concurrency. (Ord. 1505 § 4, 2001).

**Chapter 16.36**

**VARIANCES**

flood heights, additional threats to safety, extraordinary public expense, fraud, or victimization of the public. (Ord. 1505 § 4, 2001).

Sections:

16.36.010 Development regulations subject to variance.

16.36.020 Variance criteria.

**16.36.010 Development regulations subject to variance.**

The hearing examiner may grant a variance to any of these development regulations in PMC Titles 13 through 23 except those governing administrative procedures or permitted uses in a particular zone. Variances shall be a Type III permit. See Chapter 16.24 PMC. (Ord. 1505 § 4, 2001).

**16.36.020 Variance criteria.**

A. The hearing examiner shall grant no variance unless they find, in writing, that:

1. Strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning ordinance;

2. There are exceptional or extraordinary circumstances applicable to the property involved or to the intended use of the property, which circumstances are not the result of the applicant’s actions and which do not apply generally to other properties classified in the same zoning district;

3. Strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district;

4. The variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district;

5. The variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

B. An additional criterion in the case of variances to floodplain regulations is as follows: the variance will not result in increased

