

**CITY OF ILWACO
ORDINANCE NO. 904**

**AN ORDINANCE OF THE CITY OF ILWACO, WASHINGTON, AMENDING
CHAPTER 15 OF THE ILWACO MUNICIPAL CODE AND THE DUTIES OF THE
ILWACO PLANNING COMMISSION.**

WHEREAS, On February 11, 2019 the Council of the City of Ilwaco did adopt Ordinance 889 establishing the position and duties of a Hearings Examiner; and

WHEREAS, it has been determined that edits to the municipal code are necessary to further clarify separation of duties from the Planning Commission, City Council, and/or the Hearing Examiner; and

WHEREAS, RCW 36.70B.060, requires local governments planning under the Growth Management Act to provide for no more than one consolidated open record hearing; and

WHEREAS, per IMC 15.08.110, the reviewing authority, be it city council, hearing examiner, or otherwise, will hold no more than one (1) open record hearing in relation to a given project permit application, including a consolidated permit application.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ILWACO,
WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1.

Chapter 15.06 – Administrative Authority, is amended to read as follows:

15.06.040 Planning commission—Powers and duties.

A. The planning commission shall serve in an advisory capacity to the mayor, the council, or both and shall perform each and all of the duties as specified in RCW 35A.63, as amended.

B. The city council may refer to the planning commission, for its recommendation and report, any ordinance, resolution, or other proposal relating to any of the matters and subjects referred to in RCW 35A.63, as amended, and the commission shall promptly report to the council thereon, making such recommendations and giving such counsel as it may deem proper.

C. All plats or plans of subdivisions of land within the city or proposed additions, as well as ~~conditional uses, variances,~~ dedications and vacation of streets and alleys offered to the city for acceptance shall first be submitted to the planning commission for its recommendation and report. (Ord. 681 (part), 2003: Ord. 627 (part), 1999)

Chapter 15.08 – Administration of Development Regulations, is amended to read as follows:

15.08.110 Public hearing procedures.

A. The reviewing authority, be it city council, hearing examiner, or otherwise, will hold no more than one (1) open record hearing in relation to a given project permit application, including a consolidated permit application.

B. An open record hearing pertaining to project permit application can only occur fifteen (15) or more days after any threshold SEPA determination related to the application is issued.

C. The city or other reviewing authority may combine a hearing on a project permit with a hearing that may be held by another local, state, regional, federal, or other agency; provided, that the joint hearing is held within the city. The applicant may request that hearings be combined as long as the joint hearing can be held within the time periods specified in Section 15.08.130. Alternatively, the applicant may agree to a different schedule if additional time is needed in order to combine the hearings.

D. At least fifteen (15) days before a public hearing, the city planner must:

1. Publish notice of the hearing in the newspaper of legal record; and
2. Mail notice of the hearing to the neighboring real property owners within three hundred (300) feet.

E. Notices of public hearings under subsection D above must include:

1. A brief description of the project;
2. The project location;
3. The permit(s) required;
4. The time, date and place of the hearing, and closing date for comments;
5. The location where further information can be obtained; and
6. A statement of the right of any person to submit oral or written comments at the hearing.

F. Public hearings must be conducted in accordance with the following procedures:

1. The city council or hearing body is subject to the Ordinance of Ethics (RCW 35A.42.020), Prohibitions on Conflict of Interest (RCW 35A.42.020 and Chapter 42.23 RCW), the Open Public Meetings Act (Chapter 42.30 RCW), and the Appearance of

Fairness Doctrine (Chapter 42.36 RCW) the same as now exist or may later be amended.

2. The applicant bears the burden of proof and must demonstrate that the application conforms to the applicable elements of the city's development regulations and comprehensive plan and that any significant adverse environmental impacts have been adequately addressed.

3. The hearing body may recess a public hearing in order to obtain additional information. Upon recessing for this purpose, the hearing body shall announce the time and date when the public hearing will be resumed.

G. The agenda of the public hearing will generally observe the following sequence of events:

1. Determination of disqualification(s) of members of the hearing body. A member of the hearing body who is disqualified must be counted for purposes of forming a quorum. A disqualified member must make full disclosure on the record, must not participate discussion of the matter, and must abstain from voting on the proposal;

2. City planner's presentation, including submittal of any administrative reports. Members of the hearing body may ask questions of the city planner;

3. Reading of the city planner's findings of fact;

4. If applicable, reading of the planning commission's findings of fact on legislative matters as detailed in Section 15.06.040;

5. Applicant's presentation, including submittal of any materials supplementary to the application. Members of the hearing body may ask questions of the applicant;

6. Testimony or comments by the public relevant to the matter. The chair will prohibit anonymous public comment. Questions from the public directed to the city planner or the applicant will be posed by the chair at its discretion;

7. Rebuttal, response or clarifying statements by the applicant and the city planner.

H. For those members of the public who are unable to attend the public hearing but wish to comment, certified letters may be submitted for the record before the public hearing. (Ord. 889 § 1 (App. B) (part), 2019; Ord. 627 (part), 1999)

Chapter 15.48 – Conditional Uses, is amended to read as follows:

15.48.070 City planner review and recommendation.

After a conditional use permit application is complete according to Section 15.08.070, the city planner will prepare a report summarizing his or her findings, conclusions and recommendations regarding the conditional use permit application, then forward the report to the ~~planning commission~~ Hearing Examiner. (Ord. 627 (part), 1999)

~~15.48.080 Planning commission review and recommendation.~~

~~A.—After receiving the city planner’s report, the planning commission will consider the application, related materials, the city planner’s report, and any SEPA determinations.~~

~~B.—The planning commission will make a recommendation on the conditional use permit in a report to the hearing examiner.~~

~~C.—Every recommendation made by the Planning Commission must include findings of fact based on Section 15.48.090C and conclusions to support the recommendation.~~

~~D.—Recommendations of the planning commission are advisory only. (Ord. 889 § 1 (App. B) (part), 2019; Ord. 627 (part), 1999)~~

15.48.090 Hearing examiner review and decision.

A. After receiving the ~~recommendation report~~ report from the ~~city planner~~ planning commission on the conditional use permit, and after due notice, the hearing examiner will conduct a public hearing on the conditional use permit application, at which it will consider the application, related materials, the city planner’s report, ~~the planning commission’s recommendation~~, any SEPA determinations, any comments made at the hearing by the applicant(s), adjoining property owners, and other interested parties.

B. Following the public hearing, the hearing examiner may approve, approve with conditions or deny the conditional use permit request.

C. A conditional use permit will be granted by the hearing examiner based upon a statement of findings that all of the following criteria are satisfied:

1. The proposed use in the proposed location will not be detrimental to other uses legally existing or permitted outright in the zoning district.
2. The size of the site is adequate for the proposed use.
3. The traffic generated by the proposed use will not unduly burden the traffic circulation system in the vicinity.
4. The other performance characteristics of the proposed use are compatible with those of other uses in the neighborhood or vicinity.

5. Adequate buffering devices such as fencing, landscaping or topographic characteristics protect adjacent properties from adverse effects of the proposed use, including adverse visual or auditory effects.
6. The other uses in the vicinity of the proposed site are such as to permit the proposed use to function effectively.
7. The proposed use complies with the performance standards, parking requirements and other applicable provisions of this title.

D. Every decision made by the hearing examiner must include findings of fact and conclusions to support the decision.

E. The hearing examiner has full discretion in applying conditions or denying a requested conditional use. (Ord. 889 § 1 (App. B) (part), 2019; Ord. 678 §§ 5, 6, 2003; Ord. 627 (part), 1999)

Chapter 15.52 – Variances, is amended to read as follows:

15.52.070 City planner review and recommendation on variances. After a variance application is complete according to Section 15.08.070, the city planner will consider the criteria listed in Sections 15.52.060A—E above and prepare a report summarizing his or her findings, conclusions and recommendations regarding the variance application, then forward the report to the ~~planning commission~~ Hearing Examiner. (Ord. 627 (part), 1999)

~~15.52.080 Planning commission review and recommendation on variances.~~

~~A.—After receiving the city planner’s report, the planning commission will consider the criteria listed in Sections 15.52.060A—E above, then make a recommendation on the variance application to the city council.~~

~~B.—Every recommendation of the planning commission must be in writing and must include findings of fact and conclusions to support the recommendation.~~

~~C.—Recommendations of the planning commission are advisory only. (Ord. 627 (part), 1999)~~

15.52.090 Hearing examiner review and decision on variances.

A. After receiving a ~~recommendation~~ report from the ~~planning commission~~ city planner on a variance application and after due notice, the hearing examiner will conduct a public hearing on the variance application, at which it will consider the application, related materials, the city planner’s report, ~~the planning commission’s recommendation~~, any SEPA determinations, the criteria listed in Sections 15.52.060A to 15.52.060E, and any comments made at the hearing by the applicant(s), neighboring property owners, and other interested parties.

B. Following the public hearing, the hearing examiner may approve, approve with conditions or deny the variance request.

C. Every decision made by the hearing examiner must include findings of fact and conclusions to support the decision. (Ord. 889 § 1 (App. B) (part), 2019; Ord. 627 (part), 1999)

Chapter 15.64 – Short Subdivision, is amended to read as follows:

15.64.040 City planner review and recommendation.

A. After a short plat application is complete according to Section 15.08.070, the city planner will make a recommendation and forward it to the ~~city council~~ hearing examiner.

B. In reviewing the application for recommendation for short plat approval, the city planner will consider the following criteria:

1. Whether the short plat meets applicable zoning and other land use regulatory requirements of the city and state;
2. Whether the proposed short subdivision is already adequately served by sidewalks and other planning features that assure safe walking conditions for students who walk to and from school and others who may use the sidewalks;
3. Whether the design, shape, size and orientation of the proposed short subdivision are appropriate to the proposed use for which the lots are intended and are compatible with the character of the area in which they are located;
4. The recommendations of the utility's superintendent and other agencies and personnel listed in Section 15.64.020B above, if they gave recommendations;
5. No short plat covering any land situated in a flood control zone (as provided in Chapter 86.16 RCW) will be approved unless prior written approval from the State Department of Ecology is provided. Construction of protective improvements may be required as a condition of approval, and the improvements will be noted on the approved short plat;
6. Whether easements are provided and conveyed where necessary for utility installation and maintenance, public access, drainage and buffer strip or protective easements;
7. When only a portion of an entire tract is proposed to be short subdivided, how the proposed lots and improvements will eventually relate and coordinate with the entire tract when fully platted.

C. In accordance with Chapter 58.17 RCW, the city planner will also consider:

1. Whether the proposed subdivision is in conformance with the city's comprehensive plan;
2. Whether appropriate provisions have been made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds;
3. Whether sidewalks and other planning features assure safe walking conditions for people who use them, including students who only walk to and from school;
4. Whether capital facilities to be provided by the city can be provided concurrently with the expected development, in accordance with the comprehensive plan;
5. Whether the public interest will be served by the subdivision and dedication;
6. The physical characteristics of the proposed subdivision, including flood, inundation or wetland conditions (which are grounds for disapproval). No plat will be approved if it covers any land situated in a flood control zone as provided in RCW 86.16 without the prior written approval of the Department of Ecology of the state;
7. Any information provided as a result of compliance with the State Environmental Policy Act. (Ord. 627 (part), 1999)

Chapter 15.66 – Preliminary Plat, is amended to read as follows:

15.66.040 City planner review and recommendation.

A. After a preliminary plat application is complete according to Section 15.08.070, the city planner will prepare a report summarizing his or her findings, conclusions and recommendations regarding the preliminary plat application, then forward the report to the ~~city council~~ Hearing Examiner.

B. The city planner will forward one copy of the preliminary plat to each of the following:

1. City engineer;
2. Fire chief;
3. Superintendent of schools; and

4. Police chief. (Ord. 627 (part), 1999)

15.66.050 Criteria to be considered.

A. The city planner will consider all relevant evidence in making its recommendation to the ~~city council~~ Hearing Examiner. In accordance with Chapter 58.17 RCW, the city planner will consider:

1. Whether the proposed subdivision conforms to the city's comprehensive plan;
2. Whether appropriate provisions have been made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds;
3. Whether sidewalks and other planning features assure safe walking conditions for people who use them, including students who only walk to and from school;
4. Whether capital facilities to be provided by the city can be provided concurrently with the expected development, in accordance with the comprehensive plan;
5. Whether the public interest will be served by the subdivision and dedication;
6. The physical characteristics of the proposed subdivision, including flood, inundation or wetland conditions (which are grounds for disapproval). No plat will be approved if it covers any land situated in a flood control zone (as provided in Chapter 86.16 RCW) without the prior written approval of the State Department of Ecology;
7. Any information provided as a result of compliance with the State Environmental Policy Act. (Ord. 627 (part), 1999)

Chapter 15.92 – Boundary Line Adjustment, is amended to read as follows:

15.92.040 City planner review and recommendation.

The city planner will evaluate the boundary line adjustment request in relation to the current comprehensive plan and zoning district requirements in making his recommendation to the ~~city council~~ Hearing Examiner. (Ord. 627 (part), 1999)

Section 2. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.


Section 3. Referendum and Effective Date. This Ordinance, being an exercise of a power specifically delegated to the city legislative body, is not subject to referendum, and shall take effect

and is in full force five (5) days after its passage, approval and publication of an approved summary of the title as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF ILWACO AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 9TH DAY OF MARCH, 2020.


Gary Forner, Mayor

ATTEST:


Holly Beller, Treasurer

VOTE	Cundiff	Bageant	Quittner	Lessnau	Mathison	Forner
Ayes	X	X	X	X		
Nays						
Abstentions						
Absent					X	

PUBLISHED: March 18, 2020

EFFECTIVE: March 23, 2020

