

Title 20

DEVELOPMENT CODE ADMINISTRATION

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Chapter 20.04

GENERAL PROVISIONS

Sections:

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20.04.010 Purpose.

The purpose of this title is to set forth procedures for administering the development code, including procedures to combine and consolidate the application, review, and approval processes for all land development permits in the town of Friday Harbor in order to comply with the procedural requirements of Chapter 36.70B RCW. (Ord. 1219 § 1, 2003; Ord. 1119 § 1, 1999)

20.04.020 Title.

This title shall be known as the development code administration ordinance and may be cited as such. (Ord. 1119 § 2, 1999)

20.04.030 Rules of interpretation.

A. All words used in the development code shall have their normal and customary meanings, unless specifically defined otherwise in the code.

B. Words used in the present tense include the future.

C. The plural includes the singular and vice versa.

D. The words “will” and “shall” are mandatory.

E. The word “may” indicates that discretion is allowed.

F. The word “used” includes designed, intended, or arranged to be used.

G. The masculine gender includes the feminine and vice versa.

H. Distances shall be measured horizontally unless otherwise specified.

I. The word “building” includes a portion of a building and that portion of the lot on which it stands. (Ord. 1119 § 3, 1999)

20.04.040 Definitions.

For the purpose of this title, the terms set out in this section shall have the meanings indicated.

A. “Administrator” means the town administrator, or his designee, as provided for in Chapter 2.08 FHMC as amended from time to time.

B. “Applicant” means the person owning land, or the development rights to land, on which a development project is to be located.

C. “Code” means the Friday Harbor Municipal Code, being a codified compilation of the duly enacted ordinances of the town, also referred to herein as “FHMC.”

D. “Development” means those activities which are regulated by the ordinances which are codified in FHMC Titles 15 through 19.

E. “Development code” means those ordinances which are codified in FHMC Titles 15 through 19, as administered by FHMC Title 20.

F. “Land use certificate” means the document issued by the administrator giving permission for development or use of land or street right-of-way in accordance with the provisions of this code and which contains the record of all land use decisions made by the town in regard to a parcel or portion thereof.

G. “Party of record” means any person who has testified at a public hearing or has submitted a written statement related to a development action and who provides the town with a complete address.

H. “Permit” means the approval given by the town for any development.

I. “Permit coordinator” means that staff person designated by the administrator to have day-to-day responsibility for coordinating the processing of land development permit applications.

J. “Project” means a specific proposal for the development or use of land.

K. “Public hearing” means a hearing before the town council at which the staff, the applicant, and the public present information on a record to be maintained and upon which a development permit decision is to be made.

L. “Rezone” means a site specific change to the zoning designation map which is set forth as Exhibit A to the town’s land use ordinance. (Ord. 1219 § 2, 2003; Ord. 1119 § 4, 1999)

Chapter 20.08

ADMINISTRATION

Sections:

20.08.010 Roles and responsibilities.

20.08.020 Land use administrator.

20.08.030 Town council.

20.08.040 Permit coordinator.

20.08.050 Applicability.

20.08.010 Roles and responsibilities.

The regulation of land development is a cooperative activity involving many different elected and appointed officials and employees of the town. Land owners and permit applicants are expected to read and understand the development code and be prepared to fulfill the requirements set forth in it. It is the responsibility of the owner and applicant to document any suggestions, recommendations, interpretations, advice, or other information which they may receive from town officials or staff. (Ord. 1119 § 5, 1999)

20.08.020 Land use administrator.

A. Authority. The administrator is responsible for the administration of the development code.

B. Administrative Interpretations. Upon reasonable request, or as he or she may determine necessary, the administrator shall interpret the meaning or application of the provisions of the development code and issue a written administrative interpretation. Requests for interpretation shall be in writing, shall concisely identify the issue and desired interpretation, and shall be answered within 30 days of receipt. A requesting party who does not agree with the administrator’s interpretation may, within 10 days of the issuance of the interpretation, ask to be heard by the town council and the administrator shall schedule the matter on the council’s agenda within 30 days of that request.

C. Administrative Approvals. The administrator shall review and act upon those development matters set forth in FHMC 20.12.060 and 20.16.010. (Ord. 1119 § 6, 1999)

20.08.030 Town council.

The town council shall review and act on the following development matters:

- A. Land use conditional uses;
- B. Land use variances;
- C. Land use rezones;
- D. Substantial development (shoreline) permits, variances, and conditional use permits; and
- E. Subdivisions. (Ord. 1219 § 3, 2003; Ord. 1119 § 7, 1999)

20.08.040 Permit coordinator.

The permit coordinator shall review all development permit applications for completeness and send out any notices required under FHMC 20.24.010. (Ord. 1119 § 8, 1999)

20.08.050 Applicability.

In addition to any procedural requirements set forth in other titles in the development code, as they may apply to a particular type of development, all development permits shall be processed in accordance with the provisions of this title. (Ord. 1119 § 9, 1999)

Chapter 20.12**CRITERIA AND REVIEW**

Sections:

- 20.12.010 Pre-application meetings.
- 20.12.020 Land use certificates.
- 20.12.030 Land use certificates requiring council decision.
- 20.12.040 Consolidated review election.
- 20.12.050 Special processing review.
- 20.12.060 Environmental review.

20.12.010 Pre-application meetings.

A. Informal. Applicants for development permits are encouraged to participate in an informal meeting with town staff prior to the formal pre-application meeting in order to discuss, in general terms, the proposed development, town design standards, design alternatives, required permits, and the approval process.

B. Formal. Every person proposing a development, with the exception of building permits and those matters, which may be approved by the administrator under FHMC 20.12.060 and 20.16.010, shall attend a pre-application meeting with the town staff. The purpose of the meeting is to discuss in some detail the nature and scope of the proposed development, application and permit requirements, fees, the review process and schedule, and the applicable plans, policies and regulations. In order to expedite development review, the town may invite all affected jurisdictions, agencies and/or special districts to the pre-application meeting. (Ord. 1119 § 10, 1999)

20.12.020 Land use certificates.

A. Applicability. Every parcel of land within the town of Friday Harbor shall be required to have a land use certificate prior to any development or use of land.

B. Application. All applications for development permits shall be submitted on forms provided by the town. All applications shall be signed by all owners of the property on which the development is to occur. The owners, if more than one, shall designate a single person to receive all determinations and notices under

this title. Upon request the applicant shall provide a current title report indicating all owners of record.

C. Fees. Applications shall be accompanied by payment of the applicable filing fees, if any, as determined by the town council.

D. Criteria. A land use certificate shall only be issued for a lawfully existing use. (Ord. 1119 § 11, 1999)

20.12.030 Land use certificates requiring council decision.

For projects requiring both a land use certificate and a council land use decision the council decision must be issued prior to issuance of the land use certificate. (Ord. 1119 § 12, 1999)

20.12.040 Consolidated review election.

Whenever a proposed development project will require more than one development permit, the applicant shall have the right to require all or some of the development applications to be reviewed and acted upon in a single consolidated process. The applicant must make the election in writing, specifying which permits are to be processed together. Once such an election is made the applications shall be treated as a single application and, where different procedures might otherwise apply to the several applications, the most restrictive applicable procedure shall apply to the consolidated application. (Ord. 1119 § 13, 1999)

20.12.050 Special processing review.

Upon receipt of any development application, the permit coordinator shall promptly determine whether or not the special processing provisions of FHMC 20.24.010 apply. For consolidated applications under FHMC 20.12.040, if the provisions of FHMC 20.24.010 apply to any component, the entire application shall be processed in compliance with FHMC 20.24.010. (Ord. 1119 § 14, 1999)

20.12.060 Environmental review.

A. Developments subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed in accordance with the policies and procedures contained in Chapter 18.04 FHMC as amended from time to time.

B. SEPA review shall be conducted concurrently with development project review. The following are exempt from concurrent review:

1. Projects categorically exempt from SEPA.
2. Components of previously completed planned actions, to the extent permitted by law and consistent with the EIS for the planned action. (Ord. 1119 § 15, 1999)

Chapter 20.16

APPROVALS

Sections:

- 20.16.010 Administrative approvals.
- 20.16.020 Building official approvals.

20.16.010 Administrative approvals.

A. The administrator shall issue, approve, approve with conditions, or deny the following development permits. Such decisions shall not require notice to the public.

1. Issuance of land use certificates;
2. Establishment of or change of use for uses permitted outright;
3. Temporary uses of four weeks or less not otherwise permitted in the zone;
4. The following street use approvals associated with a development proposal:
 - a. Curb cuts; and
 - b. Installation approval for curb, gutter and sidewalk;
5. Determination of significance (DS) as required by SEPA and Chapter 18.04 FHMC;
6. Waiver or modification of required right-of-way improvements;
7. Boundary line adjustments;
8. Land clearing, grading, or fill permits;
9. Extension of time for approval of any development permit;
10. Except when located within the shoreline, minor amendments or revisions to approved developments or permits. Minor amendments or revisions are those which affect the precise dimensions or location of buildings, accessory structures or driveways, but which do not affect the overall project character, increase the number of lots, dwelling units, or density, or decrease the quality or amount of open space;
11. Statements of exemption for development within the shoreline;
12. Certificates of capacity;
13. View mitigation permits; and
14. Historic preservation incentives.

B. The administrator's decisions under subsection A of this section shall be final on the date issued and may be appealed to the town

council by filing a written request within 10 days of the issuance of the decision by the administrator. The administrator shall schedule the matter on the council's agenda within 30 days of that request.

C. The administrator shall issue, approve, approve with conditions, or deny the following development permits, subject to the notice and appeal requirements of this title:

1. Short subdivisions;
2. Substantial development (shoreline) permit revisions;
3. Determination of nonsignificance (DNS) or determination of mitigated nonsignificance (MDNS) under SEPA;
4. Determination that a final environmental impact statement is adequate; and
5. Determination of qualification for historic preservation incentive program.

D. The administrator's decisions under subsection (C)(1) of this section shall be subject to the notice and appeal provisions of Chapter 16.08 FHMC, as amended from time to time. Decisions under subsection (C)(2) of this section shall be subject to the notice and appeal provisions of FHMC 19.04.580, as amended from time to time. Decisions under subsections (C)(3) and (C)(4) of this section shall be subject to the notice and appeal provisions, if any, of FHMC 18.04.170, as amended from time to time. And decisions under subsection (C)(5) of this section shall be subject to the notice and appeal provisions, if any, of FHMC 20.08.020(B), as amended from time to time. (Ord. 1219 § 4, 2003; Ord. 1190 §§ 1, 2, 2002; Ord. 1119 § 16, 1999)

20.16.020 Building official approvals.

The building official shall be responsible for processing all development permits required under the provisions of Chapter 15.04 FHMC as amended from time to time. (Ord. 1119 § 17, 1999)

Chapter 20.20

HEARINGS AND APPEALS

Sections:

- 20.20.010 Town council action without public hearing.
- 20.20.020 Town council action with public hearing.
- 20.20.030 Procedures for public hearings.
- 20.20.040 Reconsideration.
- 20.20.050 Appeal of council decision.

20.20.010 Town council action without public hearing.

The council shall take the following action without a public hearing or, at its discretion, subsequent to a public hearing:

A. Appeal of administrative interpretations under FHMC 20.08.020(B);

B. Appeal of administrative approvals or denials under FHMC 20.16.010(B) and (C); and

C. Appeal of SEPA actions, as provided in Chapter 18.04 FHMC as amended from time to time. (Ord. 1219 § 5, 2003; Ord. 1119 § 18, 1999)

20.20.020 Town council action with public hearing.

On all matters set forth in FHMC 20.08.030, the following procedures shall apply:

A. Staff Report. The permit coordinator shall prepare a staff report, summarizing the relevant facts pertaining to the property, the neighborhood, and the project, outlining the applicable code and comprehensive plan provisions, and setting forth the comments of affected town departments or other affected local, state or federal agencies. The report shall contain a recommendation for action by the council and shall be forwarded to the administrator, who shall schedule the matter for public hearing before the council.

B. Notice of Public Hearing. Notice of a public hearing shall be given as follows:

1. Time of Notices. Except as otherwise required, public notification of meetings, hearings, and pending actions under the development code shall be made by:

a. Publication for two consecutive weeks in a newspaper of general publication, the first of which shall be at least seven days before the date of the public hearing; and

b. Mailing at least seven days before the date of the public hearing to the owners, as shown on the records of the county assessor, of all properties within 300 feet of the boundaries of the property which is the subject of the hearing; and

c. Posting at least seven days before the public hearing in two public places and at least one notice on the subject property.

2. Content of Notice. The public notice shall include a general description of the proposed project, action to be taken, a nonlegal description of the property or a vicinity map or sketch, the time, date and place of the public hearing and the place where further information may be obtained.

3. Continuations. If, for any reason, a meeting or hearing on a pending action cannot be completed on the date set in the public notice, the meeting or hearing may be continued to a date certain and no further notice under this section is required.

C. Hearing and Deliberations. The council shall hold a public hearing in order to take testimony for and against the project. At the conclusion of the public hearing the council shall evaluate the project for consistency with the development code and comprehensive plan.

D. Action. The council's deliberations shall be concluded by a motion, made and approved, for one of the following:

1. Approve the project as recommended in the staff report;

2. Approve the project with additional or modified conditions;

3. Deny the project with prejudice, in which case the matter shall not be resubmitted to the council, except when permitted by law, upon a new application; and

4. Deny the project without prejudice, in which case the applicant and staff shall be given a stated period of time, not to exceed 60 days, in which the applicant may make minor modifications to the project, and then resubmit the application for a new or continued public hearing and further council deliberations.

Minor modifications shall mean that the modifications do not:

a. Enlarge the area or scope of the project; or

b. Increase the density or size of the building or other structures; or

c. Significantly increase any adverse environmental impacts.

E. Findings, Conclusions and Decision. Subsequent to, or simultaneously with, the action taken under subsection D of this section, the council shall adopt written findings of fact and conclusions of law. The date of their adoption shall constitute the final decision of the council. Where appropriate, the council shall formalize its decision by passage of a motion, resolution or ordinance on the same date the findings of fact and conclusions of law are adopted. (Ord. 1219 § 6, 2003; Ord. 1119 § 19, 1999)

20.20.030 Procedures for public hearings.

Public hearings shall serve to create or supplement an evidentiary record upon which the council will base its decision. The mayor shall open the public hearing and assure that the following sequence of events is observed:

A. Staff presentation, including submittal of any administrative reports, after which members of the council may ask questions of the staff;

B. Applicant presentation, including submittal of any materials, after which members of the council may ask questions of the applicant;

C. Testimony or comments by the public which are relevant to the project. Questions intended for the staff or the applicant shall be directed only to the mayor and posed to the staff or applicant only at the discretion of the mayor or upon the request of a council member;

D. Rebuttal, response or clarifying statements by the staff and the applicant;

E. Additional testimony or comment, if nonrepetitive, from the public;

F. The public hearing shall be closed and the council shall deliberate in public on the matter before it; and

G. During deliberations the council shall not accept new information from the staff,

applicant, or public unless the public hearing has been properly re-opened; provided, however, this shall not preclude a council member from asking the staff to assist them in locating or recollecting evidence already before the council or from obtaining staff assistance on matters or questions of law or procedure. (Ord. 1119 § 20, 1999)

20.20.040 Reconsideration.

The council may reconsider any action taken at the conclusion of its deliberations at any time prior to the adoption of its written findings of fact and conclusions of law. The council may reconsider its adoption of findings of fact and conclusions of law only by a motion duly made and seconded at the same meeting as at which the findings of fact and conclusions of law were adopted, including a continuation of that meeting. (Ord. 1119 § 21, 1999)

20.20.050 Appeal of council decision.

Appeals from decisions of the council shall be as provided for in the code sections applicable to the type of permit or approval involved. (Ord. 1119 § 22, 1999)

Chapter 20.24

APPLICATION REVIEW PROCESS

Sections:

20.24.010 Special processing requirements.

20.24.010 Special processing requirements.

A. Applicability. The provision of this section shall apply to the review of all development permit applications except the following, which, due to special circumstances, warrant a different review process, to wit:

1. Permits for uses or activities that are categorically exempt from the threshold determination requirement of the State Environmental Policy Act (Chapter 43.21C RCW), as those exemptions may be set forth from time to time in WAC 197-11-800; provided, however, that a variance under the land use regulations shall be processed in accordance with the requirements of this section;

2. Boundary line adjustments;

3. Shoreline permit exemption certificates; and

4. Shoreline permit revisions.

B. Notice of Completeness.

1. Within 28 days of receiving a date-stamped application, the town shall review the application and, as set forth below, deliver or mail to the applicant a written determination that the application is complete or incomplete. A project application shall be declared complete only when it contains all of the following materials:

a. A fully completed and signed development application on forms provided by the town and payment of all applicable review fees;

b. A fully completed and signed environmental checklist for projects subject to review under the State Environmental Policy Act;

c. The information specified for the desired project in the appropriate titles of the development code; and

d. Any supplemental information or special studies identified by the town as necessary for continued processing of the application.

2. An application shall be deemed complete on the twenty-ninth day if the town has not delivered or mailed a written notice of incompleteness under this section. A determination of completeness shall not preclude the town from requesting additional information or studies if new information is required during the processing of the application, whether because of substantial changes in the proposed project, or otherwise.

3. For applications determined to be incomplete, the town shall identify, in writing, the specific requirements or information necessary to constitute a complete application. Upon receipt of all of the additional information, the town shall, within 14 days, issue a notice of completeness or, again, notify the applicant of what additional information is still required.

C. Notice of Development Application.

1. Within 14 days of issuing a notice of completeness, the town shall issue a notice of development application. The notice of development application shall include, but not be limited to, the following:

- a. The name of the applicant;
- b. Date of application;
- c. The date of the notice of completeness;
- d. The location and description of the project;
- e. A list of the permits requested and, if applicable, a list of any studies requested;
- f. The identification of other permits not included in the application, to the extent known;
- g. The location where the application and any studies can be reviewed;
- h. The identification of any existing environmental documents;
- i. A statement of the public comment period, to be not more than 30 days following the date of the notice of application; and
- j. The date, time, and place of the public hearing, if one has been scheduled.

2. If a public hearing is required, the notice of development application shall be provided at least 30 days prior to that hearing. The notice of development application is not a

substitute for any required notice of a public hearing.

3. The notice of development application shall be posted on the subject property and a copy published twice in a newspaper of general circulation in the town. When other agencies have jurisdiction, the notice of development application shall be mailed to them.

D. Time Limit for Final Decision.

1. Except as provided in subsection (D)(2) of this section, the final decision on a development proposal shall be made within 120 days from the date of the notice of completeness.

2. The time limit established by subsection (D)(1) does not apply if a permit application:

a. Requires an amendment to the comprehensive plan or a development regulation;

b. Requires approval for the siting of an essential public facility, as provided in RCW 36.70A.200; or

c. Is substantially revised by the applicant, in which case the time period shall start on the date the revised application is determined to be complete.

3. In determining the number of days that have elapsed since the notice of completeness was issued, the following periods shall be excluded:

a. Any period during which the applicant has been requested by the town to correct plans, perform required studies, or provide additional required information. The excluded period shall be calculated from the date the town notifies the applicant of the need for the correction, study or additional information until the earlier of the date the town determines whether the correction, study or additional information satisfies the request or 14 days after the date the corrected plans, study or additional information has been provided to the town. If the town determines that the correction, study or information submitted by the applicant is insufficient, it shall notify the applicant of the deficiencies and the procedures set forth herein shall apply as if a new request for the same had been made;

b. All time required for the preparation and review of an environmental impact statement;

c. An extension of time mutually agreed upon by the applicant and the town;

d. Any period for administrative appeals of project permits, if an open record appeal hearing or a closed record appeal, or both, are allowed. The local government by ordinance or resolution shall establish a time period to consider and decide such appeals. The time period shall not exceed:

i. Ninety days for an open record appeal hearing; and

ii. Sixty days for a closed record appeal.

The parties to an appeal may agree to extend these time periods; and

4. If the town is unable to issue its final decision within the time limits set forth in this section, it shall provide written notice of that fact to the applicant, with a statement of the reasons and an estimated date for issuance of its final decision.

E. Notice of Decision. A written notice of all final decisions shall be sent to the applicant and any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application. The notice of decision shall include a statement of any threshold determination made under SEPA, and the procedures for an administrative appeal, if any. The notice of decision shall expressly state that affected property owners may request a change in valuation for property tax purposes. The notice shall be given in the manner provided for in this section, and a copy shall be given to the San Juan County assessor's office. (Ord. 1119 § 23, 1999)

Chapter 20.28

FEES

Sections:

20.28.010 Fees.

20.28.010 Fees.

The nonrefundable fee for all permits governed by this title shall be reviewed annually by the town council who shall direct the town clerk to adjust the fee appropriately and post such list in a conspicuous place within Town Hall and make such list available to the public upon request. (Ord. 1119 § 24, 1999)

Chapter 20.32

VIOLATION AND PENALTY

Sections:

20.32.010 Violation and enforcement.

20.32.010 Violation and enforcement.

A. A violation of this title shall be and hereby is declared both a public nuisance and a Class 1 civil infraction, as defined in Chapter 1.18 FHMC as amended from time to time. Each day that a violation of this title exists may be treated as a separate infraction.

B. Except in circumstances where there is a serious and imminent threat to public health or safety, prior to filing a public nuisance abatement action in San Juan County superior court, the town shall attempt to gain compliance by use of the civil infraction procedures set forth in Chapter 1.18 FHMC as amended from time to time.

C. The penalty for committing a civil infraction under this title shall be as set forth in Chapter 1.18 FHMC as amended from time to time. (Ord. 1119 § 25, 1999)