

ORDINANCE NO. 09-2016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, RELATING TO UPDATES AND CORRECTIONS TO THE CITY'S PROCEDURES FOR AMENDING DEVELOPMENT REGULATIONS; REPEALING CHAPTER 14.05 AND AMENDING CHAPTERS 14.10 AND 14.15 AND SECTION 14.30.060 TO EFFECT THE SAME; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on January 12, 2016, the city council adopted the 2015-2035 periodic update to the Covington Comprehensive Plan and determined that the city's existing development regulations implemented the 2015-2035 Comprehensive Plan and comply with the requirements of GMA; and

WHEREAS, the City previously adopted procedures for amending development regulations, consistent with the requirements for amendment prescribed by the Washington State Growth Management Act (GMA), RCW 36.70A; and

WHEREAS, the proposed amendments to the Covington Municipal Code (CMC) were identified by City staff as necessary to remove out of date processes and code references and to clean up inconsistencies and outdated provisions from the originally adopted King County regulations and procedures adopted upon incorporation of the City; and

WHEREAS, City staff transmitted the proposed code amendments to the Washington State Department of Commerce on January 10, 2016, as required under RCW 36.70A.106, and requested an expedited review under RCW 36.70A.106(3)(b), and has received no comments from state agencies; and

WHEREAS, the SEPA Responsible Official for the City determined that adoption of this ordinance is categorically exempt as a procedural action under WAC 197-11-800(20); and

WHEREAS, the city council finds that the City's procedures for the amendment of its development regulations, as currently adopted and as amended pursuant to this ordinance, are consistent with the requirements for amendment prescribed by the Washington State Growth Management Act (GMA), RCW 36.70A;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 14.05 Repealed. Chapter 14.05 of the Covington Municipal Code, which was last amended by Ordinance 41-02, is hereby repealed.

Section 2. Chapter 14.10 Amended. Chapter 14.10 of the Covington Municipal Code, which was last amended by Ordinance 41-02, is hereby amended pursuant to Exhibit A, attached hereto and incorporated fully herein by this reference.

Section 3. Chapter 14.15 Amended. Chapter 14.15 of the Covington Municipal Code, which was last amended by Ordinance 41-02, is hereby amended pursuant to Exhibit B, attached hereto and incorporated fully herein by this reference.

Section 4. Section 14.30.060 Amended. Section 14.30.060 of the Covington Municipal Code, which was last amended by Ordinance 41-02, is hereby amended pursuant to Exhibit C, attached hereto and incorporated fully herein by this reference.

Section 5. Savings Clause. The amendment or repeal of any section of Title 14 CMC pursuant to this ordinance shall not affect any right or duty accrued or any proceeding commenced under the provisions of such amended or repealed sections which were in existence on the effective date of the amended or repealed sections of Title 14 CMC herein.

Section 6. Severability. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 7. Corrections. Upon the approval of the city attorney, the city clerk is authorized to make any necessary technical corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

Section 8. Effective Date. This ordinance shall be published in the official newspaper of the city and shall take full force and effect five (5) days after the date of publication. A summary of this ordinance in the form of the ordinance title may be published in lieu of publishing the ordinance in its entirety.

PASSED BY THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, at a regular meeting thereof on the 12th day of April, 2016, and signed in authentication of its passage.



Jeff Wagner, Mayor

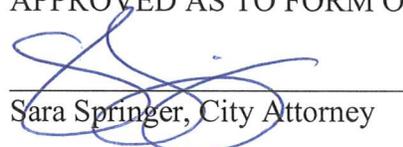
PUBLISHED: April 15, 2016
EFFECTIVE: April 20, 2016

ATTESTED:



Sharon Scott, City Clerk

APPROVED AS TO FORM ONLY:



Sara Springer, City Attorney

EXHIBIT A
AMENDMENTS TO CMC 14.10--Definitions

14.10.001 Generally.

Unless otherwise defined in this chapter, the definitions provided in chapter 18.20 shall be applicable to this title. The definitions contained in this chapter apply throughout this title, unless, from the context, another meaning is clearly intended.

14.10.005 Applicant.

~~“Applicant” means the person or entity who is required to post the financial guarantee. (Ord. 20-07 § 66; Ord. 43-02 § 2 (27.040). Formerly 14.55.010)~~

14.10.010 Area zoning.

~~“Area zoning” as used in this division is synonymous with the terms of “rezoning or original zoning” and means procedures initiated by the City of Covington, which result in the adoption or amendment of zoning maps on an area-wide basis. This type of zoning is characterized by being comprehensive in nature, deals with distinct communities, specific geographic areas and other types of districts having unified interests within the City. Area zoning, unlike a reclassification, usually involves many separate properties under various ownerships and utilizes several of the zoning classifications available to express the City’s current comprehensive plan and subarea plan policies in zoning map form. (Ord. 41-02 § 2 (20.08.030))~~

14.10.020 Benchmarks.

~~“Benchmarks” means quantifiable measures used to monitor the outcomes of public policy. (Ord. 41-02 § 2 (20.08.035))~~

14.10.030 Comprehensive plan.

~~“Comprehensive plan” means the goals, policies and criteria approved by the City Council to meet the requirements of the Washington State Growth Management Act, and:~~

- ~~(1) As a beginning step in planning for the development of the City;~~
- ~~(2) As the means for coordinating City programs and services;~~
- ~~(3) As policy direction for official regulations and controls;~~
- ~~(4) As a means for confirming the King County urban/rural boundary;~~

~~(5) As a means of promoting the general welfare. (Ord. 41-02 § 2 (20.08.070))~~

14.10.040 Council.

“Council” means the City of Covington City Council. (Ord. 41-02 § 2 (20.08.090))

14.10.045 Default.

“Default” means the failure to:

(1) Comply with financial guarantee conditions;

(2) Complete, in the specified time, the required improvements in accordance with this code and with approved project plans and conditions. (Ord. 20-07 § 66; Ord. 43-02 § 2 (27.040). Formerly 14.55.020)

14.10.050 Department.

~~“Department” means either the Department of Community Development or the Department of Public Works, as specified herein. (Amended at request of department 2/08; Ord. 41-02 § 2 (20.08.100))~~

14.10.055 Development permits.

“Development permits” means all permits, reviews, and approvals administered by the Department including, but not limited to, right-of-way use permits, grading permits, building permits, fire code permits, subdivisions, short subdivisions, binding site plans, zoning permits, conditional use permits, boundary line adjustments, and environmental review and shoreline permits. (Ord. 20-07 § 66; Ord. 06-05 § 1; Ord. 23-04 § 3; Ord. 43-02 § 2 (27.04.010). Formerly 14.55.040)

14.10.060 Development regulations.

“Development regulations” means the controls placed on development or land use activities by the City including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, and subdivision ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in an ordinance by the City. (Ord. 41-02 § 2 (20.08.105))

14.10.070 Director.

~~“Director” means either the Director of the Community Development Department or the Director of the Public Works Department, or his or her designee, as specified herein. (Amended at request of department 2/08; Ord. 41-02 § 2 (20.08.106))~~

14.10.080 Docket.

“Docket” (noun) means the list of suggested changes to the comprehensive plan or development regulations maintained by the Department. “Docket” (verb) means to record with the Department a suggested change to the comprehensive plan or development regulations. (Ord. 41-02 § 2 (20.08.107))

14.10.085 Environmental review.

~~“Environmental review” means all permits, reviews, and approvals administered pursuant to Chapter 16.10 CMC. (Ord. 20-07 § 66; Ord. 43-02 § 2 (27.04.028). Formerly 14.55.060)~~

14.10.090 Examiner.

“Examiner” means the Hearing Examiner as established by Chapter 2.25 CMC, as amended. (Ord. 01-09 § 10; Ord. 41-02 § 2 (20.08.120))

14.10.095 Financial guarantee.

~~“Financial guarantee” means a form of financial security posted to ensure timely and proper completion of improvements, to ensure compliance with the Covington Municipal Code, and/or to warranty materials, workmanship of improvements, and design. Financial guarantees include assignments of funds, cash deposits, and/or other forms of financial security acceptable to the Directors. For the purpose of this chapter, the terms “performance guarantee,” “maintenance guarantee” and “defect guarantee” are considered subcategories of financial guarantee. (Ord. 20-07 § 66; Ord. 43-02 § 2 (27.04.015). Formerly 14.55.070)~~

14.10.100 Functional plans.

“Functional plans” are detailed plans for facilities and services and action plans for other governmental activities. Functional plans should be consistent with the comprehensive plan, define service levels, provide standards, specify financing methods which are adequate, stable and equitable, be the basis for scheduling facilities and services through capital improvement programs and plan for facility maintenance. Functional plans are not adopted to be part of the capital facilities plan element of the comprehensive plan. (Ord. 41-02 § 2 (20.08.132))

14.10.102 Guarantor.

“Guarantor” means a bank or other acceptable entity which issues the financial guarantee. (Ord. 20-07 § 66; Ord. 43-02 § 2 (27.04.020). Formerly 14.55.080)

14.10.108 Permit fee.

“Permit fee” means a payment of money imposed upon development as a condition of application for or approval of development to cover the costs of processing applications, inspecting and reviewing plans or other information required to be submitted for purpose of evaluation of an application, or inspecting or monitoring development activity. (Ord. 20-07 § 66; Ord. 43-02 § 2 (27.04.040). Formerly 14.55.100)

14.10.110 Reclassification.

“Reclassification” means a change in the zoning classification by procedures initiated by an individual or a group of individuals who, during the intervals between area zoning map adoptions, wishes to petition for a change in the zoning classification which currently applies to their individual properties. (Ord. 41-02 § 2 (20.08.160))

14.10.120 Site-specific comprehensive plan land use map amendment.

“Site-specific comprehensive plan land use map amendment” means an amendment to the comprehensive plan land use map which includes one property or a small group of specific properties. (Ord. 41-02 § 2 (20.08.170))

14.10.130 Subarea plan.

“Subarea plan” means a detailed local land use plan, which implements and is consistent with and may be incorporated in whole or part into an element of the comprehensive plan, containing specific policies, guidelines, and criteria adopted by the City Council to guide development and capital improvement decisions within specific subareas of the City. The subareas of the City will consist of distinct areas having unified interests or similar characteristics within the City. Subarea plans may include potential annexation area plans, neighborhood plans, and plans addressing multiple areas having common interests. ~~The relationship between the 2004 Comprehensive Plan and any subarea plans are established by CMC 14.15.020.~~ (Ord. 41-02 § 2 (20.08.060))

EXHIBIT B

AMENDMENTS TO CMC 14.15—Comprehensive Plan

14.15.010 Comprehensive plan adopted.

Adopted pursuant to Under the state constitution and the Washington State Growth Management Act, Chapter 36.70A RCW, the ~~2001 Comprehensive Plan is adopted and declared to be the comprehensive plan for City until amended, repealed or superseded~~ City of Covington comprehensive plan shall be the principal planning document for the orderly physical development of the City and shall be used to guide subarea plans, functional plans, provision of public facilities and services, review of annexations, development regulations and land development decisions. A copy of the currently adopted City of Covington Comprehensive Plan is on file with the City Clerk for public inspection. (Ord. 41-02 § 2 (20.12.010))

~~14.15.020 Relationship of comprehensive plan to previously adopted plans, policies, and land use regulations.~~

~~The 2001 Comprehensive Plan shall relate to previously adopted plans, policies and land use regulations as follows:~~

- ~~(1) Where conflicts exist between neighborhood, or other plans and the comprehensive plan, the comprehensive plan shall prevail;~~
- ~~(2) Pending or proposed subarea plans or plan revisions and amendments to adopted land use regulations, that are adopted on or after September 25, 2001, shall conform to all applicable policies and land use designations of the 2001 Comprehensive Plan;~~
- ~~(3) Vested applications for subdivisions, short subdivisions and conditional uses for which significant adverse environmental impacts have not been identified may rely on existing zoning to govern proposed uses and densities. Subdivisions, short subdivisions and conditional uses also may rely on specific facility improvement standards adopted by ordinance, including but not limited to street improvement, sewage disposal and water supply standards, that conflict with the comprehensive plan but shall be conditioned to conform to all applicable comprehensive plan policies on environmental protection, open space, design, site planning and adequacy of on-site and off-site public facilities and services, in cases where specific standards have not been adopted;~~
- ~~(4) Vested permit applications for proposed buildings and grading and applications for variances, when categorically exempt from the procedural requirements of the State Environmental Policy Act, may rely on existing zoning and specific facility improvement standards adopted by ordinance; and~~
- ~~(5) Nothing in this section shall limit authority to approve, deny or condition proposals in accordance with the State Environmental Policy Act. (Ord. 41-02 § 2 (20.12.015))~~

~~14.15.030 Zoning, potential zoning, property-specific development standards, and special district overlays.~~

~~Zoning adopted pursuant to this section shall constitute official zoning for the City.~~

~~(1) Official zoning, including but not limited zoning with property-specific development conditions, is depicted on the official zoning map, as maintained by the Department.~~

~~(2) Property-specific development standards (p-suffix conditions) in effect or hereinafter adopted or amended shall be maintained by the Department in the property-specific development conditions notebook.~~

~~(3) Special district overlays in effect or hereinafter adopted or amended shall be maintained by the Department in the special district overlay application maps notebook. (Ord. 41-02 § 2 (20.12.050))~~

~~**14.15.040 Park development policies.**~~

~~Park development policies are adopted and serve as a general basis for a park and recreation facility development, except that the comprehensive plan shall prevail where conflicts, if any, occur. (Ord. 41-02 § 2 (20.12.090))~~

~~**14.15.050 Shoreline management master program.**~~

~~The policies, objectives and goals of the shoreline management master program are adopted as an addendum to the comprehensive plan for the City. As an addendum to the comprehensive plan, such policy statement constitutes the official policy of the City regarding areas subject to shoreline management jurisdiction. (Ord. 41-02 § 2 (20.12.200))~~

~~**14.15.060 Transportation plan.**~~

~~(1) The transportation plan consists of the following elements:~~

~~(a) Element five— transportation consisting of the transportation-related policies from the 2001 Comprehensive Plan.~~

~~(b) Any transportation priority process.~~

~~(c) The annual transportation needs report.~~

~~(d) Any implementation strategy report, as amended.~~

~~(2) The Council finds that the mitigated determination of nonsignificance is adequate to support adoption of the transportation element.~~

~~(3) The transportation plan is adopted as the functional plan implementing the transportation policies established by the comprehensive plan. As an amplification and augmentation of the comprehensive plan, it constitutes official City policy with regard to surface transportation issues.~~

~~(4) The transportation plan dealing with “transportation needs report” and “arterial functional classification” is subject to an annual review and update process preparatory to the capital improvement program budgeting process. Updates will incorporate additional functional plan elements, other local and regional transportation plans and studies, and other information available to Director of Public Works, and shall include public review and information in the annual review of the updates. The Department of Public Works shall provide an update report to the City Council on these elements before finalization of the roads capital improvement program~~

budget identifying possible changes to the needs lists or arterial classifications, and why these changes are needed.

~~(5) The transportation plan shall be implemented through:~~

~~(a) Adoption of an annual six-year capital improvement program.~~

~~(b) Application of the road adequacy standards, CMC Title 12.~~

~~(c) Application of the mitigation payment system, Chapter 12.105 CMC.~~

~~(d) Mitigation of transportation impacts as required and authorized under the State Environmental Policy Act.~~

~~(e) Road maintenance and traffic operating improvements.~~

~~(f) Pursuit of additional funding sources at the local, State and Federal levels whenever possible.~~

~~(g) Participation in regional efforts to enhance transportation systems applicable to the City.~~

~~(h) Establishment of a system for reviewing proposed developments for their impacts on equestrian, pedestrian and bicycle traffic and requiring mitigation when adverse impacts will occur.~~

~~(i) Development of transportation system management techniques, zoning code changes, and road improvements to enhance the use of transit, increase vehicle occupancy and the development of alternate means of transportation.~~

~~(j) Coordination of plans, projects, programs and policies with other governments. (Amended at request of department 2/08; Ord. 41-02 § 2 (20.12.430))~~

14.15.070 Nonmotorized transportation plan.

~~(1) The nonmotorized transportation plan, contained in the comprehensive plan, is adopted as the nonmotorized transportation functional plan implementing related policies established in the adopted comprehensive plan, and constitutes an amplification and augmentation of official City policy with regard to transportation issues.~~

~~(2) The nonmotorized transportation plan shall be implemented through:~~

~~(a) Integration of nonmotorized projects into the annual transportation project priority process and the annual six-year capital improvement program.~~

~~(b) Updating the street standards.~~

~~(c) City road maintenance, operating revisions and improvements.~~

~~(d) Pursuit of additional public and private capital, maintenance and program funds at the local, regional, State and Federal level for nonmotorized improvements.~~

~~(e) Providing an overall guide for the coordination, development and implementation of the nonmotorized element of transportation system. (Ord. 41-02 § 2 (20.12.433))~~

14.15.080 Kent School District capital facilities plan.

~~The Kent School District No. 415 Capital Facilities Plan 2001-2002 to 2006-2007, dated April 2001, which shall be included as an attachment to the ordinance codified in this section and is incorporated herein by reference, is adopted as a subelement of the capital facilities element of the comprehensive plan. (Ord. 41-02 § 2 (20.12.467))~~

~~14.15.090 Flood hazard reduction plan policies.~~

~~The flood hazard reduction plan policies, Chapter 16.15 CMC, are adopted as operating principles to guide the City's flood hazard reduction programs and to meet the intent of the goals and policies of the comprehensive plan. As an amplification and augmentation of the comprehensive plan, the policies constitute official City policy with regard to flood hazard reduction and floodplain management in the City. (Ord. 41-02 § 2 (20.12.480))~~

~~14.15.100 Potential annexation area process.~~

~~The potential annexation area (PAA) process involves two separate determinations: the boundaries of the PAA's, and how services within those PAA's are to be provided. Negotiating these issues will assure that residents and community groups in the affected areas are given meaningful opportunities to participate in the negotiation process. Staff shall keep Council members apprised of public participation processes undertaken by the staff, and provide them with notice of any public meetings on PAA's well in advance of the meetings. Further, staff shall provide summaries of the processes it has used to achieve public participation in any transmittals of PAA agreements forwarded to the Council. (Ord. 41-02 § 2 (20.12.485))~~

EXHIBIT C
AMENDMENTS TO CMC 14.30.060

14.30.060 Legislative ~~decisions~~ actions.

(1) Defined. Legislative actions involve the creation, amendment, or implementation of policy or law by ordinance. In contrast to other types of actions, legislative actions apply to large geographic areas and are of interest to many property owners and citizens. Legislative actions are only taken after an open record hearing.

~~(42)~~ Decisions. The following decisions are legislative, and are not subject to the procedures in this chapter, unless otherwise specified:

- (a) Zoning code amendments;
- (b) Adoption of development regulations and amendments;
- (c) Zoning map amendments;
- (d) Adoption of the comprehensive plan and any plan amendments; and
- (e) Annexations.

~~(23)~~ Planning Commission. The Planning Commission shall hold a public hearing and make recommendations to the City Council on the decisions listed in subsection ~~(42)~~ of this section.

~~(34)~~ City Council. The City Council may hold a public hearing on the decisions listed in subsection ~~(42)~~ of this section prior to passage of an ordinance or entry of a decision.

~~(45)~~ Public Notice. Unless otherwise provided for herein, Nnotice of the public hearing ~~or public meeting~~ shall be provided to the public ~~as set forth in Chapter 14.40 CMC~~ at least fourteen (14) days prior to the hearing ~~by publishing notice as provided for in CMC 14.40.040(2).~~ In addition ~~to publishing notice and posting notice at City Hall, at least fourteen (14) days prior to the hearing the City shall mail notice of the public hearing to the applicant, relevant government agencies, and other interested parties who have requested in writing to be notified of the hearing. If the legislative action is for a comprehensive plan amendment, notice of the public hearing shall also be posted and mailed pursuant to CMC 14.40.040(3). The city may also provide optional methods of public notice as provided in CMC 14.40.050.~~

(6) Appeals. The City Council's final legislative decision may be appealed together with any SEPA Threshold Determination by filing a petition with the Growth Management Hearings Board pursuant to the requirements set forth in RCW 36.70A.290, as currently adopted and hereafter amended from time to time.