

Title 18

ADMINISTRATION OF LAND DEVELOPMENT REGULATIONS

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Chapter 18.01

LAND DEVELOPMENT ADMINISTRATIVE PROCEDURES

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**ARTICLE I. TYPES OF PROJECT
PERMIT APPLICATIONS**

18.01.010 **Purpose and definitions.**

A. Purpose. North Bonneville adopts its comprehensive plan and development regulations pursuant to RCW 35A.63, Planning and Zoning in Code Cities. In enacting this chapter, and pursuant to RCW 36.70B.150, the City Council intends to establish a mechanism for implementing most of the provisions of Chapter 36.70B RCW (the Regulatory Reform Act) regarding compliance, conformity, and consistency of proposed projects with the city's adopted comprehensive plan and development regulations.

B. Definitions. The following definitions shall apply throughout this chapter:

1. "Administrator" means the City Planning Advisor.
2. "Aggrieved party" means a party of record who can demonstrate the following: (a) the land use decision will prejudice the person; (b) the asserted interests are among those the city is required by city code to consider in making a land use decision; and (c) a decision on appeal in favor of the person would substantially eliminate or redress the prejudice alleged to be caused by the land use decision.
3. "Closed record hearing" means an administrative closed record hearing before the City Council based upon the record following an open record hearing on a project permit application. The hearing is on the record with no new evidence or information allowed to be submitted. In an appeal, at the City Council's discretion, the council may allow argument based upon the record established at the open record hearing.
4. "Days" means calendar days.
5. Effective Date of Decisions. All preliminary and final decisions shall be effective on the date stated in Section 18.01.280(B).
6. Effective Date of Notices. All notices provided to applicants and any members of the public shall be effective on the date deposited in the mail and when first published or posted on properties.
7. "Open record hearing" means a hearing, conducted by a single hearing body, that creates the record through testimony and submission of evidence and information. An open record hearing may be held prior to a decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit.
8. "Parties of record" means the land use permit applicant, persons who have testified at an open record hearing, and any persons who have submitted written comments concerning the application that form part of the public record that is considered at the open record hearing (excluding persons who only signed petitions or mechanically produced form letters).

9. "Project permit" or "project permit application" means any land use or environmental permit or license required from the city for a project action, including but not limited to subdivisions, planned unit developments, conditional uses, livestock conditional uses, shoreline substantial development permits, permits or approvals required by the critical areas protection ordinance (Chapter 21.10 of this code), site-specific rezones authorized by the North Bonneville comprehensive plan or a formally adopted subarea plan, but excluding the adoption or amendment of the North Bonneville comprehensive plan, a subarea plan, or development regulations except as otherwise specifically included in this subsection.

10. "Public meeting" means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to a decision. A public meeting may include, but is not limited to, a City Council meeting, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the local government's project permit application file. (Ord. 994, 2011; Ord. 829 § 1 (part), 2003)

18.01.020 Procedures for processing development project permits.

For the purpose of project permit processing, all development permit applications shall be classified as one of the following: Type I-A, Type I-B, Type II, Type III or Type IV. Legislative decisions are Type V actions, and are addressed in Section 18.01.060. Exemptions from the requirements of project permit application processing are contained in Section 18.01.080. (Ord. 829 § 1 (part), 2003)

18.01.030 Determination of proper type of procedure; use of a hearings examiner.

A. Determination by Planning Advisor. The Planning Advisor or his or her designee (hereinafter the "Administrator") shall determine the proper procedure for all development applications. If there is a question as to the appropriate type of procedure, the Administrator shall resolve it in favor of the higher procedure type number.

B. Optional Consolidated Permit Processing. An application that involves two (2) or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by the code. The applicant may determine whether the application shall be processed collectively or individually. If the application is processed under the individual procedure option, the highest numbered type procedure must be processed prior to the subsequent lower numbered procedure. For purposes of this section, "highest number" is Type V and lowest number is Type I (or Type I-A).

C. Decision maker(s). Applications processed in accordance with subsection B of this section which have the same highest numbered procedure but are assigned different hearing bodies shall be heard collectively by the highest decision-maker(s). The City Council is the highest, followed by the Planning Commission, and then the Administrator. Joint public hearings with other agencies shall be processed according to Section 18.01.050.

D. SEPA Review. Project review conducted pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, shall occur concurrently with project review set forth in this chapter. The SEPA review process, including all public comment procedures, is set forth in Chapter 21.04 of this code. Nothing contained in this chapter shall be construed to restrict the need for full environmental review in accordance with Chapters 21.04 (Environmental Protection) and 21.10 (Resource Lands and Critical Areas Protection).

E. Alternate Procedure Allowing Use of Hearings Examiner. After consultation with the Planning Advisor, the Council may, in its discretion, elect to utilize a hearings examiner in lieu of the Council or the Planning Commission for adjudicative land use proceedings. In that event, code provisions relating to the Council or to the Planning Commission as an adjudicative body (including on remand) shall be construed as including the alternate use of a hearings examiner, where applicable. (Ord. 1048, 2015; Ord. 829 § 1 (part), 2003)

18.01.040 Project permit application framework.

Table 1 -- Permits/Decisions

Type I-A	Type I-B	Type II	Type III	Type IV	Type V
Building permits	Site and building plan review (1)	Site and building plan review (1)	Preliminary plat for full subdivision	Final plat	Development regulations
Grading permits	Boundary line Adjustment	Short plat	Preliminary PUD	Final PUD	Zoning text and map amendments
Manufactured home placement permit		Conditional use	Site specific rezone		Comprehensive plan text and map amendments
Permitted uses not requiring notice of application		Livestock Conditional use			Shoreline Master Program amendments
			Shoreline substantial development, conditional use, or variance permit		Annexations

(1) The Administrator makes the final decision on some site and building plan review applications, subject to Section 17.20.060.

Table 2 -- Action Type

	Procedure Project Permit Applications (Type I -- IV)						Legislative
	Type I-A	Type I-B	Type II	Type III	Type IV	Type V	
Notice of application:	No	No	No	Yes	No	No	
Recommendation made by:	N/A	N/A	Administrator	Planning Commission	Administrator	Planning Commission	
Final decision made by:	Administrator	Administrator	Planning Commission (2)	City Council	City Council	City Council	
Open record public hearing	No	No	Yes	Yes (3)	No	Yes (4)	
Administrative appeal	Yes (5)	Yes (6), closed record before Planning Commission	Yes (6), closed record before City Council	N/A	N/A	N/A	
Judicial appeal	Yes	No	No	Yes	Yes	Yes	

- (2) The Administrator may make the final decision on some applications, as specified in Chapter 17.20.060.
- (3) Open record hearings will be held before the Planning Commission to make recommendations to City Council.
- (4) Open record hearings will be held both before Planning Commission to make recommendations to City Council, and before City Council for final decision.
- (5) Appeal provisions specified in Chapter 17.52.
- (6) The Planning Commission will hear appeals of staff decisions; the City Council will hear appeals of Planning Commission decisions. Both appeals are closed record hearings

Summary of Decision Making:

Type I-A -- Administrative without notice; administrative appeal by applicant only.

Type I-B -- Administrative without notice; administrative appeal by the applicant only; appealable to the Planning Commission.

Type II -- Planning Commission review. Notice and open record hearing before the Planning Commission. Planning Commission makes the final decision subject to a right of appeal.

Type III -- Notice and open record hearing before the Planning Commission. Planning Commission makes recommendation to City Council. City Council makes final decision.

Type IV -- Notice and decision by City Council during regular council meeting.

Type V -- Notice and public hearing before Planning Commission, with Planning Commission recommendation to City Council. City Council also provides notice and public hearing before making final legislative decision. (Ord. 829 § 1 (part), 2003)

18.01.050 Joint public hearings (other public agency hearings).

A. Administrator's Decision to Hold Joint Hearing. The Administrator may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as: (1) the hearing is held within the city limits; and (2) the requirements of subsection C of this section are met.

B. Applicant's Request for a Joint Hearing. The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this chapter. In the alternative, the applicant may agree to a particular schedule if additional time is needed in order to complete the hearings.

C. Prerequisite to Joint Public Hearing. A joint public hearing may be held with another local, state, regional, federal or other agency and the city, as long as:

1. The other agency is not expressly prohibited by statute from doing so;
2. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and
3. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing. (Ord. 829 § 1 (part), 2003)

18.01.060 Legislative decisions.

A. Decision. The following decisions are legislative, and are not subject to the procedures in this chapter, unless otherwise specified:

1. Zoning code text, development regulations and zoning district amendments;
2. Area-wide rezones to implement city policies contained within the North Bonneville comprehensive plan and any amendments thereto;
3. Adoption of the North Bonneville comprehensive plan and any plan amendments;
4. Annexations;
5. Shoreline master program (SMP) amendments; and
6. All other master land use and utility plans and amendments thereto.

B. Except as otherwise provided in this chapter, the administrative procedures for the legislative decisions specified in this section are set forth in Chapter 20.60 of this code. (Ord. 829 § 1 (part), 2003)

18.01.070 Legislative enactments not restricted.

Nothing in this chapter or the permit processing procedures shall limit the authority of the city to make changes to the North Bonneville comprehensive plan as part of an annual revision process, the city's development regulations, or to undertake any other legislative actions. (Ord. 829 § 1 (part), 2003)

18.01.080 Exemptions from project permit application processing.

A. Whenever a permit or approval in the North Bonneville Municipal Code has been designated as a Type I-A, I-B, II, III or IV permit, the procedures in this title shall be followed in project permit processing. The following permits or approvals are specifically excluded from the procedures set forth in this title:

1. Landmark designations;
2. Street vacations;

3. Public works projects identified as planned actions in the North Bonneville comprehensive plan or any amendments thereto. Planned actions are those public or private projects specifically identified by city ordinance or resolution adopted after environmental review conducted in conjunction with the adoption or amendment of the North Bonneville comprehensive plan.

B. Pursuant to RCW 36.70B.140(2), Type I-A permits, including but not limited to building permits, or other construction permits, or similar administrative approvals categorically exempt from environmental review under SEPA (Chapter 43.21C RCW and Chapter 197-11 WAC), or permits/approvals for which environmental review has been completed in connection with other project permits shall be processed and permitted within one hundred twenty (120) calendar days (subject to Section 18.01.110). However, Type I-A permits are not subject to other requirements of this chapter, and are excluded from the following procedures as defined in this section:

1. Determination of completeness;
2. Notice of application;
3. Except as provided in RCW 36.70B.140, optional consolidated project permit review processing;
4. Single report stating that all of the decisions and recommendations made as of the date of the

report do not require an open public record hearing;

5. Notice of Decision. Unless the time deadlines are waived in writing by the applicant, the Type I-A permit shall be processed within one hundred twenty (120) calendar days after the applicant files complete application, subject to the provisions of Section 18.01.110. (Ord. 829 § 1 (part), 2003)

18.01.080

ARTICLE II. TYPE I -- IV PROJECT PERMIT APPLICATIONS

18.01.090 Preapplication conference.

A. Recommended Conference. It is recommended that applicants for project permit Type I-A actions proposing impervious surfaces equal to or exceeding five thousand (5,000) square feet and/or nonsingle-family structures five thousand (5,000) square feet or more, Type II, and Type III actions schedule and attend a preapplication conference with the Administrator. The purpose of the preapplication conference is to acquaint the applicant with the requirements of the North Bonneville Municipal Code and to allow the Administrator to provide the applicant with preliminary comments based upon the applicant's preliminary sketch of the proposal.

B. Assurances Unavailable. It is impossible for the conference to be an exhaustive review of all potential issues. The discussions at the conference shall not bind or prohibit the city's future application or enforcement of all applicable law and ordinances. No statements or assurances made by city representatives shall in any way relieve the applicant of his or her duty to submit an application consistent with all relevant requirements of city, state, and federal codes, laws, regulations and land use plans.

C. Optional Conferences. Preapplication conferences for all other types of applications not specified in this section are optional, and requests for conferences will be considered on a time-available basis by the Director. (Ord. 829 § 1 (part), 2003)

18.01.100 Development permit application.

A. Applications for project permits shall be submitted upon forms provided by the city. The applicant is encouraged to schedule a presubmittal conference with the city prior to submittal of the application.

B. An application shall consist of all materials required by the applicable development regulations, and shall include the following general information:

1. A completed project permit application form, including SEPA checklist submitted pursuant to North Bonneville Municipal Code Chapter 21.04;
2. A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the written consent of all owners of the affected property. A photocopy of the property deed shall be provided;
3. A property and/or legal description of the site for all applications, as required by the applicable development regulations;
4. The applicable fees;
5. A site plan, showing the location of all proposed lots and points of access and identifying all easements, deeds, restrictions, or other encumbrances restricting the use of the property, if applicable;
6. Any supplemental information or special studies identified by the city.

C. In addition to the requirements set forth in subsections A and B of this section, complete application requirements for the following land use permits are set forth in the following sections of the North Bonneville Municipal Code:

1. Grading permits, see International Building Code and Chapter 17.04 of this code;
2. Building permits, see Chapter 17.04 of this code;
3. Boundary line adjustments, see Chapter 19.12 of this code;
4. Short Plats, see Chapter 19.04 of this code;
5. Preliminary Plat, see Chapter 19.08 of this code;
6. Planned Unit Developments (PUDs), see Chapter 20.55 of this code;
7. Site and Building Plan Review, see Chapter 17.20 of this code;
8. Conditional Uses, see Chapter 20.56 of this code;
9. Final Plats, see Chapter 19.08 of this code;
10. Amendments and Rezones, see Chapter 20.60 of this code;
11. Shoreline Substantial Development, Conditional Use, or Variance Permits, see WAC 173-27-180.

D. The city may waive specific submittal requirements determined to be unnecessary for review of an application. In such event, the city shall document the waiver in the project file. (Ord. 981, 2011; Ord. 829 § 1 (part), 2003)

**18.01.110 Submission and acceptance of application--Determination of completeness--
Additional information and project revisions.**

A. Determination of Completeness. Within twenty-eight (28) calendar days after receiving a project permit application, the city shall mail a determination to the applicant which states either: (1) that the application is complete; or (2) that the application is incomplete and what is necessary to make the application complete.

B. Identification of Other Agencies with Jurisdiction. To the extent known by the city, other agencies with jurisdiction over the project permit application shall be identified in the city's determination required by subsection A of this section.

C. Incomplete Application Procedure.

1. If the applicant receives a determination from the city that an application is not complete or that additional information is required, the applicant shall have one hundred twenty (120) calendar days to submit the necessary information to the city. Within fourteen (14) calendar days after an applicant has submitted the requested additional information, the city shall make the determination as described in subsection A of this section and notify the applicant in the same manner.

2. If the applicant either refuses in writing to submit additional information or does not submit the required information within the one hundred twenty- (120) day period, the Director shall make a determination that the application has been abandoned and is therefore withdrawn.

3. In those situations where the Administrator has deemed an application withdrawn because the applicant has failed to submit the required information within the necessary time period, the applicant will forfeit the application fee.

D. City's Failure to Provide a Determination of Completeness. A project permit application shall be deemed complete under this section if the city does not provide a written determination to the applicant that the application is incomplete as provided in subsection A of this section. Notwithstanding a failure to provide a determination of completeness, the city may request additional information as provided in subsection F of this section.

E. Date of Acceptance of Application. When the project permit application is determined to be complete, the Director shall accept it and note the date of acceptance.

F. Additional Information. A project permit application is complete for purposes of this section when it meets the submission requirements in Section 18.01.100, as well as the submission requirements contained in the applicable development regulations. This determination of completeness shall be made when the application is sufficient for continued processing even though additional information may be required or project modifications may be undertaken after submittal. The city's determination of completeness shall not preclude the city from requiring additional information, that the applicant correct plans or perform studies at any time if new information is required for project review, or if there are substantial changes in the proposed action.

1. Any period during which the city has requested the applicant to correct plans, perform required studies, or provide additional information shall be excluded from the time period provided in this chapter.

2. The time period for requiring additional information shall be calculated from the date the city notifies the applicant of the need for additional information until the earlier of: (a) the date the city determines whether the information satisfies the request for information; or (b) fourteen (14) calendar days after the date the information has been provided to the city.

G. Effect of Project Permit Application Revisions--Substantial Revisions. If, in the judgment of the Administrator, the content of an application is so substantially revised by an applicant, either voluntarily or to conform with applicable standards and requirements, that such revised proposal constitutes a substantially different proposal than that originally submitted, the Administrator shall deem the revised proposal to be a new application.

1. In reaching a decision whether a revision is substantial, the Director shall consider the relative and absolute magnitude of the revision, the environmental sensitivity of the site, any changes in location of significant elements of the project and their relation to public facilities, surrounding lands and land uses and the stage of review of the proposal.

2. Lesser revisions that would not constitute substantial revisions during early stages of review may be substantial during later stages due to the reduced time and opportunity remaining for interested parties to review and comment upon such changes.

3. Written notice of such determination of substantial revision shall be provided to the applicant and all parties of record, including the reasons for the Administrator's decision.

4. A determination that any revision is substantial shall result in the time periods set forth in this chapter starting from the date at which the revised project application is determined to be complete. The revised project application shall be subject to all laws, regulations, and standards in effect on the date of the determination of completeness of the substantial revision. (Ord. 829 § 1 (part), 2003)

18.01.120 Referral and review of development permit applications.

Upon acceptance of a complete application, the Administrator shall do the following:

A. Transmit a copy of the application, or appropriate parts of the application, to each affected agency and city department for review and comment, including those agencies responsible for determining compliance with state and federal requirements. The affected agencies and city departments shall have ten (10) calendar days to comment. The Administrator may grant an extension of time if needed.

B. Environmental Review. Developments and planned actions subject to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, shall be reviewed in accordance with the policies and

procedures contained in Chapter 21.04 of this code and Chapter 197-11 WAC. SEPA review shall be conducted concurrently with development project review. The following are exempt from concurrent review:

1. Projects categorically exempt from SEPA; and
2. Components of planned actions previously reviewed and approved in the North Bonneville comprehensive plan or amendments thereto to the extent permitted by law and consistent with the SEPA environmental determination for the planned action.

C. If a Type III procedure is required, the Administrator shall provide for notice and hearing as set forth in Sections 18.01.150 through 18.01.190 of this code. (Ord. 829 § 1 (part), 2003)

18.01.130 Scope of project review.

A. Fundamental land use planning choices made in adopted comprehensive and subarea plans and development regulations shall serve as the foundation for project review. The review of a proposed project's consistency with applicable development regulations, or in the absence of applicable regulations the adopted North Bonneville comprehensive plan or subarea plan(s), under Section 18.01.140 of this code shall incorporate the determinations under this section.

B. During project review, the Administrator or any subsequent reviewing body shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations, the adopted North Bonneville comprehensive plan or subarea plan(s). At a minimum, such applicable regulations or plans shall be determinative of the:

1. Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as conditional uses, if the criteria for their approval have been satisfied;
2. Density of residential development; and
3. Availability and adequacy of public facilities identified in the North Bonneville comprehensive plan, if the plan or development regulations provide for funding of these facilities.

C. During project review, the Administrator shall not reexamine alternatives to or hear appeals on the items identified in subsection B of this section.

D. The Administrator may determine that the requirements for environmental analysis and mitigation measures in development regulations and other applicable laws provide adequate mitigation for some or all of the project's specific probable significant adverse environmental impacts to which the requirements apply. In making this determination, the Administrator shall:

1. Determine if the applicable regulations require measures that are sufficient to adequately address site-specific, probable significant adverse environmental impacts identified through project application review; and
2. Determine whether additional studies are required and/or whether the project permit application should be conditioned with additional mitigation measures.

E. Nothing in this section limits the authority of the city to approve, condition, or deny a project as provided in its development regulations adopted under Chapter 35A.63 RCW and in its policies and criteria adopted under RCW 43.21C.060, including project review under Chapters 21.04 (Environmental Protection) and 21.10 (Critical Areas Protection) of this code. (Ord. 829 § 1 (part), 2003)

18.01.140 Project consistency.

A. A proposed project's consistency with development regulations adopted under Chapter 35A.63 RCW or, in the absence of applicable development regulations, the appropriate elements of the North Bonneville comprehensive plan or subarea plan adopted under Chapter 35A.63 RCW shall be determined by consideration of:

1. The type of land use;
2. The level of development, such as units per acre or other measures of density;
3. Infrastructure, including public facilities and services needed to serve the development; and
4. The character of the development, such as development standards.

B. In determining consistency, the determinations made pursuant to Section 18.01.130 shall be controlling.

C. For purposes of this section, the term "consistency" shall include all terms used in this chapter and Chapter 36.70A RCW to refer to performance in accordance with this chapter and Chapter 36.70A RCW, including but not limited to compliance, conformity, and consistency.

D. Nothing in this section requires documentation, dictates procedures for considering consistency, or limits the Administrator from asking more specific or related questions with respect to any of the four (4) main categories listed in subsections (A)(1) through (4) of this section. (Ord. 829 § 1 (part), 2003)

ARTICLE III. PUBLIC NOTICE

18.01.150 Notice of application.

A. Time of Issuance. Within fourteen (14) calendar days of issuing the determination of completeness, the Administrator shall issue a notice of application on all Type III project permit applications. If an open record predecision public hearing is required or requested, the notice of application shall be issued at least thirty (30) calendar days prior to the hearing.

B. SEPA Exempt Projects. A notice of application shall not be required for project permits that are categorically exempt under SEPA, unless a public comment period or an open record predecision hearing is required.

C. The notice of application shall be posted on the subject property and at City Hall. The notice of application shall be issued prior to and is not a substitute for the required notice of a public hearing.

D. Contents. The notice of application shall include:

1. The name of the applicant;
2. The date of application, the date of the determination of completeness for the application and the date of the notice of application;
3. The street address location of the project or, if unavailable, the location in reference to roadway intersections;
4. A description of the proposed project action and a list of the project permits included in the application;
5. The identification of other permits required by other agencies with jurisdiction not included in the application, to the extent known by the city;
6. The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
7. The name of the city staff contact and telephone number;
8. A statement of the limits of the public comment period, which shall be ten (10) calendar days following the date of notice of application (or thirty (30) calendar days if the application involves a shoreline master program permit), and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request copy of the decision once made, and any appeal rights;
9. The date, time, place and type of hearing, if applicable, and scheduled prior to issuance of the notice of application;
10. A statement of the preliminary determination of consistency with applicable development regulations and the North Bonneville comprehensive plan, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation and determination of consistency as provided in Section 18.01.140 of this code;
11. Any other information determined appropriate by the city, such as the city's pending SEPA threshold determination or a statement advising that a final environmental determination shall be made following a comment period;

12. If a local government has made a determination of significance under Chapter 43.21C RCW concurrently with the notice of application, the notice of application shall be combined with the determination of significance and scoping notice. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application;

13. A statement that the final decision on the application will be made within one hundred twenty (120) days from the date of the determination of completeness.

E. Public Comment on the Notice of Application. All public comments on the notice of application must be received in City Hall by 5:00 p.m. on the last day of the comment period. Comments may be mailed, personally delivered or sent by facsimile. Comments should be as specific as possible. Public comments may be provided at any time up to and during the public hearing. However, the city cannot ensure that comments provided after the comment period on the notice of application will be considered and addressed in staff reports on Type III projects. The SEPA threshold determination shall not be issued until after the expiration of the comment period following the notice of application. Regardless of the expiration of the notice of application comment period, any interested party may comment upon the SEPA threshold determination pursuant to applicable SEPA regulations. (Ord. 829 § 1 (part), 2003)

18.01.160 Methods of public notice of application.

A. The city shall provide the public notice of application for a project permit by posting the property and by publication in the city's official newspaper, as provided in this section, unless otherwise provided in this chapter.

1. Posting. Posting of the property for site-specific proposals shall consist of one (1) or more notice boards posted by the city as follows:

- a. A single notice board shall be placed:
 - i. At the midpoint of the site street frontage or as otherwise to allow for maximum visibility; and
 - ii. Where it is completely visible to pedestrians and vehicle traffic.
- b. Additional notice boards may be required when:
 - i. The site does not abut a public road;
 - ii. A large site abuts more than one (1) public road; or
 - iii. The Administrator determines that additional notice boards are necessary to provide adequate public notice.
- c. Notice boards shall be:
 - i. Maintained in good condition by the applicant during the notice period;
 - ii. In place at least ten (10) calendar days prior to the date of hearing or decision; and
 - iii. Removed within fifteen (15) calendar days after the end of the notice period.

2. Published Notice. Published notice shall include at least the project's street address or location, project description, type of permit(s) required, comment period dates, and location where the complete application may be reviewed in a newspaper of general circulation in the county. (Ord. 829 § 1 (part), 2003)

18.01.170 Shoreline master program (SMP) permits.

SMP permits require notice as provided in WAC 173-27-110 and additional mailing of the notice as provided herein:

A. Mailing. The notice of application shall be mailed to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred (300) feet of the boundary of the property upon which the development is proposed.

B. Content of SMP Notice. Except as provided in subsection C of this section, the content of SMP notices shall be identical to the notice set forth in WAC 173-27-110.

C. SMP Comment Period. The public may provide comments for thirty (30) calendar days after the notice of publication date. (SMP notice is twenty (20) calendar days longer than the comment period for other Type III permits as required by RCW 90.58.140.) A notice of application for a shoreline substantial

development permit shall notify the public of the thirty (30) day comment period. (Ord. 829 § 1 (part), 2003)

18.01.180 Optional additional public notice.

A. As optional methods of providing public notice of any project permits, the city may:

1. Notify the public or private groups with known interest in a certain proposal or in the type of proposal being considered;
2. Notify the news media;
3. Place notices in appropriate regional or neighborhood newspapers or trade journals;
4. Publish notice in agency newsletters or send notice to agency mailing lists, either general lists or lists for specific proposals or subject areas;
5. Mail to neighboring property owners; and
6. Place notices on the Internet.

B. The city's failure to provide the optional notice as described in this subsection shall not be grounds or invalidation of any permit decision. (Ord. 829 § 1 (part), 2003)

18.01.190 Notice of public hearing.

A. Content of Notice of Public Hearing for All Types of Applications. The notice given of a public hearing required in this chapter shall contain:

1. The name and address of the applicant or the applicant's representative;
2. Description of the affected property, including the street address (if any) and either a vicinity location (including roadway intersections) or written description, other than a legal description, reasonably sufficient to inform the public of the location;
3. The date, time and place of the hearing;
4. A description of the nature of the proposed use or development;
5. A statement that all interested persons may appear at the hearing and provide oral or written comments or testimony;
6. Where information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be submitted;
7. The name of the city staff contact or representative and the telephone number where additional information may be obtained;
8. That a copy of the application and staff report, and all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at City Hall at no cost.

B. Mailed Notice. Mailed notice of the public hearing shall be provided as follows:

1. Type I-A, Type I-B, Type II, Type IV, and Type V Actions. No mailed public notice is required.
2. Type III Actions. The notice of public hearing shall be mailed to:
 - a. The applicant;
 - b. All owners of property within three hundred (300) feet of any portion of the subject property; and
 - c. Any person who submits written comments on an application.
3. Type III Preliminary Plat Actions. In addition to the notice for Type III actions above, additional notice for preliminary plats and proposed subdivisions shall be provided as follows:
 - a. Notice of the filing of a preliminary plat application of a proposed subdivision located adjoining the city's municipal boundaries shall be given to the appropriate county officials;
 - b. Notice of the filing of a preliminary plat application of a proposed subdivision located adjacent to the right-of-way of a state highway shall be given to the Washington State Secretary of Transportation, who must respond within fifteen (15) calendar days of such notice;
 - c. Special notice of the hearing shall be given to adjacent landowners by any other reasonable method the city deems necessary. Adjacent landowners are the owners of real property, as shown by the records of the county assessor, located within three hundred (300) feet of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to

be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, mailed notice under RCW 58.17.090(1)(b) and this section shall be given to owners of real property located within three hundred (300) feet of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided.

4. Type V Actions. For Type V legislative actions, the city shall publish notice at City Hall and by one (1) publication in a newspaper of general circulation in the county at least ten (10) days before the hearing and all other notice required by city code and RCW 35.23.221.

5. General Procedure for Mailed Notice of Public Hearing. All public notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first.

C. Procedure for Posted or Published Notice of Public Hearing.

1. Posted notice of the public hearing is required for all Type II and Type III project permit applications. The posted notice shall be posted as required by Section 18.01.160(A)(1) of this code.

2. Published notice is required for all procedures involving an open record public hearing. The published notice shall be published in a newspaper of general circulation in the county. Published notice is not required for closed record public hearings before the City Council, as no new testimony or evidence is allowed at such hearings. Mailed notice of the closed record public hearing shall be provided for all parties of record.

D. Time and Cost of Notice of Public Hearing.

1. Notice of a public hearing shall be mailed, posted and first published not less than ten (10) nor more than forty-five (45) calendar days prior to the hearing date. Any posted notice shall be removed within fifteen (15) calendar days following the public hearing.

2. All costs associated with the public notice shall be borne by the applicant. (Ord. 829 § 1 (part), 2003)

ARTICLE IV. PROJECT REVIEW AND APPROVAL PROCESS

18.01.200 Administrative approvals without notice (Type I-A).

A. The Administrator may approve, approve with conditions, or deny (with or without prejudice) all Type I-A permit applications without notice.

B. The Administrator's decisions under this section shall be final on the date issued. (Ord. 829 § 1 (part), 2003)

18.01.210 Administrative approvals subject to notice (Type I-B).

A. The Administrator may grant approval, preliminary approval, or approval with conditions, or may deny (with or without prejudice) all Type I-B permit applications, subject to the notice and appeal requirements of this section. The Administrator shall issue written findings and conclusions supporting Type I-B decisions.

B. Final Administrative Approvals. Administrative decisions under this section shall become final subject to the following:

1. An applicant may appeal the decision to the Planning Commission; provided, that a written appeal is filed within fourteen (14) calendar days after the notice of the decision.

2. If no appeal is submitted, the preliminary approval becomes final at the expiration of the notice period.

3. If a written notice of appeal is received within the specified time the matter will be referred to the Planning Commission for a public hearing within thirty (30) calendar days. The decision of the Planning Commission shall be the final city decision. (Ord. 1075, 2017; Ord. 829 § 1 (part), 2003)

18.01.220 City council action.

A. Actions. Upon receiving a recommendation from the Planning Commission, an appeal of a Planning Commission's decision or notice of any other matter requiring the council's attention, the council shall perform the following actions as appropriate:

1. Hold a closed record public hearing and make a decision on a Planning Commission recommendation;
2. Hold a closed record public hearing and make a decision on an appeal of a Planning Commission decision;
3. Hold an open record public hearing and make a decision on a legislative matter (Type V action);
4. Make a decision on Type IV actions;
5. At the council's discretion, hold a public hearing and make a decision on the following matters: other matters not prohibited by law.

B. Decisions. The City Council shall make its decision by motion, resolution, or ordinance as appropriate. In its decision regarding appeals of Planning Commission decisions, the City Council shall adopt written findings and conclusions (either those rendered by the Planning Commission or findings and conclusions prepared by the council).

1. A City Council decision on a Planning Commission recommendation or on an appeal of a Planning Commission decision following a closed record public hearing shall include one (1) of the following actions:

- a. Approve as recommended;
- b. Approve with additional conditions;
- c. Modify, with or without the applicant's concurrence; provided, that the modifications do not:
 - i. Enlarge the area or scope of the project;
 - ii. Increase the density or proposed building size; or
 - iii. Significantly increase adverse environmental impacts as determined by the responsible official;
- d. Deny without prejudice (reallocation or resubmittal is permitted);
- e. Deny with prejudice (reapplication or resubmittal is not allowed for one (1) year); or
- f. Remand for further proceedings and/or evidentiary hearing in accordance with Section

18.01.270 of this code.

2. A council decision following a closed record appeal hearing shall include one (1) of the following actions:

- a. Grant the appeal in whole or in part;
- b. Deny the appeal in whole or in part; or
- c. Remand for further proceedings and/or evidentiary hearing in accordance with Section 18.01.270 of this code.

3. A council decision on a Type IV action shall include one (1) of the following actions:

- a. Approve;
- b. Approve with conditions in accordance with the North Bonneville Municipal Code or other regulations; or
- c. Deny without prejudice (reapplication or resubmittal is permitted). (Ord. 829 § 1 (part), 2003)

18.01.230 Planning commission review and decision (Type II).

A. The Planning Commission shall review and make findings, conclusions and issue final decisions on all Type II permit applications.

B. Staff Report. The Administrator shall pre-prepare a staff report on the proposed development or action summarizing the comments and recommendations of city departments, affected agencies and special districts, and evaluating the development's consistency with the city's development code, adopted plans and regulations. If requested by the Planning Commission, the staff report shall include proposed findings, conclusions and recommendations for disposition of the development application. The staff report shall include and consider all written public comments on the application.

C. Planning Commission Hearing. The Planning Commission shall conduct a public hearing on Type II development proposals for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the city's development code, adopted plans and regulations. Notice of the Planning Commission hearing shall be in accordance with Section 18.01.190. All appeals of administrative project permit decisions shall be considered together with the decision on the project application in a single, consolidated public hearing.

D. Required Findings. In addition to the approval criteria listed in this code, the Planning Commission shall not approve a proposed development unless it first makes the following findings and conclusions:

1. The development is consistent with the North Bonneville comprehensive plan and meets the requirements and intent of the North Bonneville Municipal Code;
2. The development is not detrimental to the public health, safety and welfare;
3. The development adequately mitigates impacts identified under Chapters 21.04 (SEPA) and 21.10 (Critical areas protection) of this code; and
4. For subdivision applications, findings and conclusions shall be issued in conformance with North Bonneville Municipal Code Title 19 and RCW 58.17.110.

E. Final Decision. In the Planning Commission's decision regarding Type II actions, it shall adopt written findings and conclusions.

1. The Planning Commission's decision following closure of an open record public hearing shall include one (1) of the following actions:
 - a. Approve;
 - b. Approve with conditions;
 - c. Deny without prejudice (reapplication or resubmittal is permitted); or
 - d. Deny with prejudice (reapplication or resubmittal is not allowed for one (1) year).
2. The decision shall be a final decision, appealable in accordance with Sections 20.01.300 and 20.01.310 of this code. (Ord. 829 § 1 (part), 2003)

18.01.235 Planning commission review and recommendation (Type III).

A. The Planning Commission shall review and make findings, conclusions and issue recommendations on all Type III permit applications.

B. Staff Report. The Administrator shall prepare a staff report on the proposed development or action summarizing the comments and recommendations of city departments, affected agencies and special districts, and evaluating the development's consistency with the city's development code, adopted plans and regulations. If requested by the Planning Commission, the staff report shall include proposed findings, conclusions and recommendations for disposition of the development application. The staff report shall include and consider all written public comments on the application.

C. Planning Commission Hearing. The Planning Commission shall conduct a public hearing on Type III development proposals for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the city's development code, adopted plans and regulations. Notice of the Planning Commission hearing shall be in accordance with Section 18.01.190 of this code.

D. Required Findings. In addition to the approval criteria listed in this code, the Planning Commission shall not recommend approval of a proposed development unless it first makes the following findings and conclusions:

1. The development is consistent with the North Bonneville comprehensive plan and meets the requirements and intent of the North Bonneville Municipal Code;
2. The development is not detrimental to the public health, safety and welfare;
3. The development adequately mitigates impacts identified under Chapters 21.04 (SEPA) and 21.10 (Critical areas protection) of this code; and
4. For subdivision applications, findings and conclusions shall be issued in conformance with North Bonneville Municipal Code Title 19 and RCW 58.17.110.

E. Recommendation. In the Planning Commission's recommendation decision regarding Type III actions, it shall adopt written findings and conclusions. The Planning Commission's recommendation following closure of an open record public hearing shall include one (1) of the following actions:

1. Recommend approval;
2. Recommend approval with conditions; or
3. Recommend denial.

(Ord. 829 § 1 (part), 2003)

18.01.240 Procedures for public hearings.

Public hearings shall be conducted in accordance with the hearing body's rules of procedure and shall serve to create or supplement an evidentiary record upon which the body will base its decision. Questions directed to the staff or the applicant shall be posed by the chair at its discretion. In cases where scientific standards and criteria affecting project approval are at issue, the chair shall allow orderly cross-examination of expert witnesses presenting reports and/or scientific data and opinions. The hearing body may address questions to any party who testifies at a public hearing. The chair shall open the public hearing and, in general, observe the following sequence of events:

A. Staff presentation, including submittal of any administrative reports. Members of the hearing body may ask questions of the staff.

B. Applicant presentation, including submittal of any materials. Members of the hearing body may ask questions of the applicant.

C. Testimony or comments by the public germane to the matter.

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

E. The evidentiary portion of the public hearing shall be closed and the hearing body shall deliberate on the matter before it. (Ord. 829 § 1 (part), 2003)

18.01.250 Procedures for closed record hearings and appeals.

Closed record hearings on Planning Commission appeals shall be conducted in accordance with the City Council's rules of procedure and shall serve to provide argument and guidance for the body's decision. Closed record hearings shall be conducted generally as provided for other public hearings. Except as provided in Section 18.01.270 of this code, no new evidence or testimony shall be given or received. The parties to an appeal of a Planning Commission decision may submit timely written statements or arguments. (Ord. 829 § 1 (part), 2003)

18.01.260 Reconsideration.

A party of record at a public hearing or closed record appeal may seek reconsideration only of a final decision by filing a written request for reconsideration with the Administrator within five (5) calendar days of the oral announcement of the final decision. The request shall comply with Section 18.01.310(B) of this code. The City Council, Hearing Examiner or hearing body shall consider the request within fourteen (14) calendar days, without public comment or argument by the party filing the request. If the request is denied, the previous action shall become final. If the request is granted, the City Council, Hearing Examiner or hearing body may immediately revise and reissue its decision or may call for argument in accordance with the procedures for closed record appeals. Reconsideration should be granted only when an obvious legal error has occurred or a material factual issue has been overlooked that would change the previous decision.

All requests for reconsideration filed shall contain all information required in Section 18.01.310 B. 1-4. (Ord. 1075, 2017; Ord. 829 § 1 (part), 2003)

18.01.270 Remand.

In the event the City Council determines that the public hearing record, the record on appeal as applicable, are insufficient or otherwise flawed, the council may remand the matter back to the Planning Commission or Administrator, as applicable, to correct the deficiencies. The Council shall specify the

items or issues to be considered and the time frame for completing the additional work. (Ord. 829 § 1 (part), 2003)

18.01.280 Final decision--Exclusions to 120-day deadline.

A. Time. The final decision on a development proposal shall be made within one hundred twenty (120) calendar days from the date of the determination of completeness. In determining the number of calendar days that have elapsed after the determination of completeness, the following periods shall be excluded:

1. Any time needed to amend the North Bonneville comprehensive plan or development regulations;
2. Pursuant to Section 18.01.110(F) of this code, any time required to correct plans, perform studies or provide additional information; provided, that within fourteen (14) calendar days of receiving the requested additional information, the Administrator shall determine whether the information is adequate to resume the project review;
3. Pursuant to Section 18.01.110(G) of this code, substantial project revision(s) made or requested by an applicant, in which case the one hundred twenty (120) calendar days will be calculated from the time that the city determines the revised application to be complete and issues a new determination of completeness in accordance with Section 18.01.110(A) of this code;
4. All time required for the preparation and review of an environmental impact statement;
5. Any time needed to process an application for projects involving the siting of an essential public facility;
6. An extension of time mutually agreed upon by the city and the applicant;
7. Any remand to the Planning Commission.

B. Effective Date. The final decision of the council or hearing body shall be effective on the date stated in the decision, motion, resolution, or ordinance; provided, that the appeal periods shall be calculated from the date of issuance of the land use decision, as provided in the Land Use Petition Act, Chapter 36.70C RCW. For the purposes of this chapter, the date on which a land use decision is issued is:

1. Three (3) days after a written decision is mailed by the city or, if not mailed, the date on which the city provides notice that a written decision is publicly available;
2. If the land use decision is made by ordinance or resolution by the City Council sitting in a quasi-judicial capacity, the date the City Council passes the ordinance or resolution; or
3. If neither subsection (B)(1) nor (2) of this section applies, the date the decision is entered into the public record.

C. Notice of Decision. Upon issuance of the final decision, Administrator shall mail or hand deliver a copy of the final decision to the applicant, any persons who have filed a written request for a copy of the decision, and to all persons who submitted substantive written comments on the application. The notice of decision shall include a statement of the threshold determination made under Chapter 21.04 of this code and the procedures for an appeal (if any) of the permit decision or recommendation.

D. Notice of Delayed Decision. If the city is unable to issue its final decision within the time limits provided in this chapter, the city will provide written notice of this fact to the applicant. The notice shall contain a statement of reasons why the time limits have not been met and an estimated date for issuance of the final decision. (Ord. 829 § 1 (part), 2003)

ARTICLE V. APPEALS

18.01.290 Appeal of administrative interpretations and approvals (Type I-A and I-B).

Administrative interpretations may be appealed, by applicants or parties of record, to the Planning Commission. Type I-A approvals may be appealed to the Board of Adjustment in accordance with Chapter 17.52 of this code. Type I-B approvals may be appealed to the Planning Commission. (Ord. 829 § 1 (part), 2003)

18.01.300 Appeal of planning commission decisions (Type II)--Standing to appeal.

Planning Commission decisions may be appealed by parties of record from the open record hearing to the City Council. "Parties of record" include: the land use permit applicant; persons who have testified at the open record hearing; and any persons who have submitted written comments concerning the application that forms part of the public record that is considered at the open record hearing (excluding persons who only signed petitions or mechanically produced form letters). (Ord. 829 § 1 (part), 2003)

18.01.310 Appeals--Procedure.

A. Filing. Every appeal of an administrative decision, as well as Planning Commission or Hearing Examiner decisions, shall be filed with the City within fourteen (14) calendar days after the date of the recommendation or decision of the matter being appealed; however, SEPA appeals shall be filed in accordance with Section 21.04.170 of this code (ten (10) calendar days). A notice of appeal shall be delivered to City Hall by mail or personal delivery, and must be received by 5:00 p.m. on the last business day of the appeal period, with the required appeal fee.

B. Contents. The notice of appeal shall contain a concise statement identifying:

1. The decision being appealed;
2. The name and address of the appellant and his or her interest(s) in the matter;
3. The specific reasons why the appellant believes the decision to be wrong. The appellant shall bear the burden of proving the decision was wrong;
4. The desired outcome or changes to the decision; and
5. The Appeal Fee.

C. Any notice of appeal not in full compliance with this section shall not be considered, and the appellant shall be so notified.

D. The appeal shall be heard and determined within thirty (30) calendar days of the filing of notice of appeal. (Ord. 1075, 2017; Ord. 829 § 1 (part), 2003)

18.01.320 Judicial appeal.

A. Appeals from the final decision of the City Council and appeals from any other final decisions specifically authorized (subject to timely exhaustion of all administrative remedies) shall be made to Skamania County Superior Court within twenty-one (21) calendar days of the date the decision or action became final, as defined in Section 18.01.280(B) of this code, unless another time period is established by state law or local ordinance. All appeals must conform with procedures set forth in Chapter 36.70C RCW.

B. Notice of the appeal and any other pleadings required to be filed with the court shall be served on the City Clerk, and all persons identified in RCW 36.70C.040, within the applicable time period. This requirement is jurisdictional.

C. The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. Prior to the preparation of any records, the appellant shall post with the City Clerk an advance fee deposit in the amount specified by the City Clerk. Any overage will be promptly returned to the appellant. (Ord. 829 § 1 (part), 2003)

18.01.330 Effective date--Severability.

A. Effective Date. This chapter shall be effective on May 26, 2003; provided, however, all complete land development applications meeting all requirements of the North Bonneville Municipal Code filed on or after May 26, 2003, shall be subject to the requirement of a single, consolidated open record public hearing, including the requirements set forth in Sections 18.01.200 through 18.01.320 of this code.

B. Conflict with Other Procedures. In the event of a conflict in project application and/or public hearing procedures found elsewhere in the North Bonneville Municipal Code or found in the North Bonneville shoreline master program, and the requirements of this chapter, the requirements and procedures set forth in this chapter shall prevail.

C. Severability. If any clause, sentence, paragraph, section or part of this chapter or its application to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction,

such order or judgment shall not affect the validity or constitutionality of the remainder of any part of this chapter. To this end, the provisions of each clause, sentence, paragraph, section or part of this law are declared severable. (Ord. 829 § 1 (part), 2003)

18.01.400 Hearing Examiner

Sections:

- 18.01.400 Purpose.**
- 18.01.405 Policy.**
- 18.01.410 Qualifications.**
- 18.01.415 Powers.**
- 18.01.420 Procedures.**
- 18.01.425 Responsibilities.**
- 18.01.430 Scope of Review.**
- 18.01.435 Duties.**
- 18.01.440 Noninterference in Performance of Duties.**
- 18.01.445 Conflict of Interest.**
- 18.01.450 Legal Council for Hearing Examiner.**
- 18.01.455 Disqualification of Hearing Examiner.**
- 18.01.460 Final Decision.**
- 18.01.465 Legal Effect of Decision.**
- 18.01.470 Appeal to City Council.**
- 18.01.475 Fees.**

18.01.400 Purpose.

The Hearing Examiner position is established to provide an efficient and effective administrative adjudicatory system for acting upon quasi-judicial matters and reviewing contested administrative determinations. (Ord. 1051, 2015)

18.01.405 Policy.

Whenever the City requires a public hearing to be conducted by the Hearing Examiner, the hearing shall be conducted in accordance with the procedures established in NBMC 18.01.400. (Ord. 1051, 2015)

18.01.410 Qualifications.

The party selected to serve the City in this role must be an experienced attorney, with expertise presiding over hearings often involving private citizens without council, in matter typically addressing land use, planning, code enforcement, and development issues. The Hearing Examiner must be familiar with due process, appearance of fairness rules, applicable Washington State law and become familiar with the City of North Bonneville development codes and other relevant codes, ordinances, regulations and policies. (Ord. 1051, 2015)

18.01.415 Powers.

The Hearing Examiner may only hear matters where they have expressed authority as outlined in the scope of review as noted in Section 18.01.430. The Hearing Examiner is empowered to act in lieu of the City Council, the Planning Commission and other officials as may be assigned for those matters listed in the scope of review. Wherever existing ordinances, codes or policies authorize or direct the aforementioned authorities to undertake certain activities which the Hearing Examiner has been assigned, such ordinances, codes or policies shall be construed to refer to the Hearing Examiner. The Hearing Examiner shall have the power to receive and examine available information, conduct public hearings and prepare a record thereof and enter decisions as provided by ordinance. The decision of the Hearing Examiner shall be appealable according to how the land use matter would be appealed based on the type of decision making role they are assuming as noted in Section 18.01.040. (Ord. 1051, 2015)

18.01.420 Procedures.

The Hearing Examiner shall adopt rules concerning procedures for scheduling and conduct of hearings and as otherwise related to the duties of the office, not inconsistent with the terms of this chapter. (Ord. 1051, 2015)

18.01.425 Responsibilities.

The Hearing Examiner is responsible for conducting hearings involving a variety of complex land use and regulatory compliance issues, and other issues which the City Council may delegate to the hearing examiner by ordinance or resolution. The Hearing Examiner shall issue decisions or recommendations based on relevant ordinances, regulations, policies and statutes. (Ord. 1051, 2015)

18.01.430 Scope of Work.

The Hearing Examiner may hear land use applications consistent with the provisions of RCW 35A 63.170 and RCW 58.17.330, to include the following type land use applications: conditional use permits, variances, subdivisions, shoreline permits, or any other class of application for or pertaining to development of land or land use; appeals of administrative decisions or determinations; land use matters dealing with amending the zoning ordinance when the amendment, which is applied for is not of general applicability; and, appeals of administrative decisions or determinations pursuant to RCW Chapter 43.21C relating to state environmental policy and preliminary and final plat approval recommendations. (Ord. 1051, 2015)

18.01.435 Duties.

The Hearing Examiner's duties include, but are not limited to the following:

- A. Develop procedural rules for the scheduling and conduct of hearing and related matters;
- B. Review properties that are the subject of hearings to become familiar with the terrain and relationships to other properties;
- C. Receive and examine hearing related documents and review case files, city codes and policies, environmental impact statements, plot plans and topographical maps and other pertinent information;
- D. Regulate the course of the hearing in accordance with this chapter and other applicable ordinances;
- E. Evaluate testimony and evidence, prepare records, enter final written findings, conclusions of law, and recommendations to the city council;
- F. Include in a decision any condition of approval that is necessary to ensure that the proposal complies with all applicable code criteria and comprehensive plan policies and does not adversely affect surrounding properties;
- G. Prepare reports and correspondence as requested;
- H. Identify weaknesses inherent in municipal code procedures and suggest remedies;
- I. Maintain knowledge of current relevant state and city land use laws, policies and related state and federal court decisions. (Ord. 1051, 2015)

18.01.440 Noninterference in Performance of Duties.

No person shall attempt to interfere with or improperly influence the Hearing Examiner in the performance of designated duties. This provision shall not prohibit the city attorney from providing legal advice to the Hearing Examiner. (Ord. 1051, 2015)

18.01.445 Conflict of Interest.

The Hearing Examiner shall not conduct or participate in any hearing or decision in which they have direct or indirect personal interest, which might exert such influence upon the examiner that might improperly interfere with the decision-making process. Any actual or potential conflict of interest shall be disclosed to the parties immediately upon discovery of such conflict and the examiner shall abstain from any further proceedings in the matter unless all parties agree in writing to have the matter heard by that hearing examiner. (Ord. 1051, 2015)

18.01.450 Legal Counsel for the Hearing Examiner.

General legal advice to the Hearing Examiner will be provided by the City Attorney, except in a contested case where the city will be represented by the City Attorney, the Mayor will input from the City Council may appoint independent counsel to render legal advice to the Hearing Examiner, the cost of which shall be borne by the City. (Ord. 1051, 2015)

18.01.455 Disqualification of Hearing Examiner.

The Hearing Examiner may enter an order of disqualification in the event of personal bias or prejudice or to preserve the appearance of fairness. Prior to any public hearing on a matter, a party may file an affidavit, which is a sworn statement in writing and under oath, stating that such party cannot have a fair and impartial hearing by reason of the Hearing Examiner's personal bias or prejudice. The Hearing Examiner shall rule on the affidavit prior to making other rulings and prior to the hearing. (Ord. 1051, 2015)

18.01.460 Final Decision.

Each final decision of a Hearing Examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the city's comprehensive plan and the city's development regulations. Each final decision of a Hearing Examiner, unless a longer period is mutually agreed to in writing by the applicant and the Hearing Examiner, shall be rendered within ten (10) working days following conclusion of all testimony and hearings. (Ord. 1051, 2015)

18.01.465 Legal Effect of Decisions.

The legal effect of the Hearing Examiner's decision may vary for the different classes of applications decided by the Examiner but shall include one of the following:

- A. The decision may be given the effect of a recommendation to the legislative body;
- B. The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body, or, if applicable, to Superior Court; or
- C. Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative body. (Ord. 1051, 2015)

18.01.470 Appeal to City Council.

The decision of the Hearing Examiner shall be appealable according to how the land use matter would be appealed based on the type of decision making role they are substituting as noted in 18.01.040. An aggrieved party or a city department may file a hearing decision to the City Council by filing written notice of appeal with the City Clerk within fourteen (14) calendar days of the final decision of the Hearing Examiner.

The notice of appeal shall state clearly the error of fact, law, or procedure alleged to have been made by the Hearing Examiner and the effect of the alleged error on the recommendation, and state the redress sought by the appellant. The notice of appeal shall be filed, together with fees which shall be set by resolution of the City Council.

The City Council will set a time and place for a hearing on the appeal before the City Council, provided the time shall be within thirty (30) calendar days. Notice of the time and place for the appeal proceeding shall be sent to the applicant at least ten (10) calendar days prior to the hearing.

Review by the City Council on appeal shall be limited to and shall be based solely on the record from the public hearing; provided, however, that the City Council may permit oral or written arguments or comments when confined to the content of the record of the hearing below. No new evidence may be presented. In respect to the matter appealed, the City Council may adopt or reject, in whole or in part, the findings and recommendations of the hearing examiner or make such other dispositions of the matter, including, without limitation, remand for further hearing. The City Council will reduce its determination to writing.

Any appeal from a decision of the City Council regarding any assessment may be made to the superior court within the time and in the manner provided by law. (Ord. 1075, 2017; Ord. 1051, 2015)

18.01.475 Fees.

Each application for a permit or approval which requires a hearing before the Hearing Examiner, and each appeal to the Hearing Examiner, shall be accompanied by payment of a fee which shall be set by resolution of the City Council. (Ord. 1051, 2015)

Chapter 18.02

LAND DEVELOPMENT PERMIT APPLICATION AND APPEAL FEES

Sections:

- 18.02.010 Fees--General.**
- 18.02.020 Building, land use, and development fees.**
- 18.02.030 Environmental review fees.**
- 18.02.040 Publication and notice fees.**
- 18.02.050 Appeal fees.**
- 18.02.060 Other charges and fees.**
- 18.02.070 Application fee refunds.**
- 18.02.080 Conflict with other chapters.**

18.02.010 Fees--General.

A. Application fees for the various applications and permits set forth in this section shall be as provided in this chapter. No application shall be considered unless and until the fee has been paid to the City Treasurer, including fees for publication charges as set by resolution of the City Council. Fees shall not be refundable except as provided in Section 18.02.070. Any exemption or refund must be approved by the City Planning Advisor and the City Treasurer and any costs incurred by the city shall be deducted from fees paid prior to any exemption or refund.

B. Payment of Fees. All fees provided in this chapter shall be paid when due. Nonpayment of any fees when due shall result in a determination by the Planning Advisor that an application has been withdrawn or is incomplete, suspending or terminating review of the application in accordance with Chapter 18.01 of this code.

C. Multiple Permits and Applications. In the case of multiple permit applications, the applicant shall pay all applicable fees. (Ord. 1075, 2017; Ord. 830 § 1 (part), 2003)

18.02.020 Building, land use, and development fees.

Fees are based on costs to reimburse the public for staff time and resources expended in reviewing and processing permit applications. These fees do not include costs of publication, mailing, or other costs incurred by the City, nor do they include costs associated with legal, qualified professional and engineering review of an application. These costs are charged in accordance with fees as set by resolution of the City Council and Section 18.02.060.

18.02.030 Environmental review fees.

Fees for conducting environmental review of projects pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, et seq., and Chapter 21.04 of this code, are in addition to general application fees and shall be as follows:

A. SEPA review. The base fees for SEPA review shall be paid by the applicant prior to the city's circulation of an environmental checklist, threshold determination, or Environmental Impact Statement (EIS).

1. Environmental checklist threshold determination: fees as set by resolution of the City Council;

2. An EIS following issuance of a determination of significance (DS), including any supplemental EIS and/or addenda to the EIS:

a. When the City is the lead agency for a proposal requiring an EIS and the responsible official determines that the EIS will be prepared by employees of the city, the City may charge and collect a fee from the applicant to cover actual costs incurred by the city in preparing the EIS. Those costs may include peer review, if necessary, for an hourly fee as set by resolution of the City Council to cover staff time spent in the preparation of the EIS, and any printing, collating, binding, and circulation of the EIS. The responsible official shall advise the applicant(s) of the projected costs for the EIS prior to actual preparation; the applicant shall post bond or otherwise ensure payment of such costs.

b. The lead agency may determine that the City will contract directly with a consultant for the preparation of an EIS, or a portion of the EIS, and may bill such costs and expenses directly to the applicant. Such consultants will be selected by mutual agreement of the city and the applicant after a call for proposals. The City shall require the applicant to post bond or otherwise ensure payment of such costs.

c. If a proposal is modified so that an EIS is no longer required, the City shall refund any fees collected under subsection (A)(3)(a) or (A)(3)(b) of this section which remain after incurred costs are paid.

d. The City shall not collect a fee for performing its duties as a consulted agency.

e. The City may charge any person for copies of any document prepared under Chapter 21.04 of this code, and for mailing the environmental document, in a manner provided by Chapter 42.17 RCW. (Ord. 1075, 2017; Ord. 830 § 1 (part), 2003)

18.02.035 Critical areas review fees.

The fees stated in this section are based on costs to reimburse the City for staff time and resources expended in reviewing and processing critical areas permit applications. These fees do not include costs of publication, mailing, or other costs incurred by the city, nor do they include costs associated with legal, qualified professional and engineering review of an application. These costs are charged in accordance with fees as set by resolution of the City Council and 18.02.060. Other application and service fees for the various building, land use and land development permit applications may also apply. Critical Area Application fees shall be as set by resolution of the City Council. (Ord. 1075, 2017; Ord. 944, 2008)

18.02.040 Publication and notice fees.

In accordance with state and local law, the City provides notice to the public of pending environmental threshold determinations made under the State Environmental Policy Act (SEPA) and other notices of pending projects and public hearings. The cost of such notices shall be paid in advance by the permit applicant and as a condition of processing all permit applications. These fees shall be set by resolution of the City Council.

Whenever the City is required to post or mail additional notices for land development projects because of changes or additions to the project initiated by the applicant, the cost shall be borne by the applicant pursuant to the fees established in this section. (Ord. 1075, 2017; Ord. 944, 2008)(Ord. 830 § 1 (part), 2003)

18.02.050 Appeal fees.

Fees for appealing building permit, land use, and land development permit decisions shall be set by resolution of the City Council. (Ord. 1075, 2017; Ord. 830 § 1 (part), 2003)

18.02.060 Other charges and fees.

A. Engineering, qualified professional and legal fees. The applicant must pay to the City all reasonable expenses and fees associated with the review of an application including, but not limited to, legal, qualified professional and engineering fees for review and consultation incurred by the city. Such costs shall be paid to the City prior to the approval of an application.

B. Recording Fees. The amount of the recording fees charged by Skamania County. (Ord. 1075, 2017; Ord. 944, 2008) (Ord. 830 § 1 (part), 2003)

18.02.070 Application fee refunds.

Fee refunds for permits shall be processed in accordance with the International Building Code. For all other land use and land development applications, 80% of the fees paid in accordance with Section 18.02.020 shall be refunded if no permit processing has been completed or costs have been incurred. If an application has been processed prior to issuance of a determination of completeness, 50% of the fee paid in accordance with Section 18.02.020 shall be refunded. No refunds shall be made after issuance of a determination of completeness. No refunds shall be made for publication of notice costs or other fees or charges set forth in Sections 18.02.040 and 18.02.060. (Ord. 981, 2011; Ord. 830 § 1 (part), 2003)

18.02.080 Conflict with other chapters.

In the event of a conflict in any fees, charges, or provisions set forth in this chapter and fees and charges or provisions found elsewhere in the North Bonneville Municipal Code, the fees, charges, requirements, procedures, and all provisions contained in this chapter now, or as hereafter amended, shall prevail. (Ord. 830 § 1 (part), 2003)

Chapter 18.03

COMPREHENSIVE PLAN AND DEVELOPMENT REGULATION AMENDMENTS

Sections:

- 18.03.010 Purpose and definitions.**
- 18.03.020 Type of action.**
- 18.03.030 Application.**
- 18.03.040 Timing and process for consideration of suggested amendments.**
- 18.03.050 Public participation.**
- 18.03.060 Criteria for approval.**
- 18.03.070 Council action.**
- 18.03.080 Denial of suggested amendments.**

18.03.010 Purpose and definitions.

A. Purpose. The purpose of this chapter is to establish the type of action, procedures for suggesting amendments, and to encourage public participation for comprehensive plan, subarea plan, and development regulation amendments.

B. Definitions. The following definitions shall apply throughout this chapter:

1. "Comprehensive land use plan" or "comprehensive plan" means a generalized coordinated land use policy statement of the City of North Bonneville that is adopted pursuant to RCW 35A.63.
2. "Development regulation" 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, planned unit development ordinances, and subdivision ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, even though the decision may be expressed in a resolution or ordinance of the City Council.

3. "Subarea plan" means a section of the comprehensive plan which contains specific policies, guidelines, and criteria adopted by the council to guide land development, transportation facilities, community facilities, infrastructure, and capital improvement decisions within specific subareas of the city. The subareas of the city shall consist of natural homogenous communities, distinctive geographic areas, or other districts having unified interest. (Ord. 846 § 1 (part), 2003)

18.03.020 Type of action.

An amendment to the comprehensive plan, a subarea plan, or the development regulations is a Type V (legislative) action and shall be considered in accordance with the procedures for such actions as set forth in Chapter 18.01 and this chapter. (Ord. 846 § 1 (part), 2003)

18.03.030 Application.

A. An amendment to the comprehensive plan, a subarea plan, or the development regulations may be initiated by the City Council, Planning Commission, Planning Advisor, or an owner(s) of real property within the city.

B. An application made by a private party for a comprehensive plan, subarea plan, or development regulation amendment shall contain the following:

1. Name, address and telephone number of the person(s) suggesting the amendment;
2. Citation of the specific text, map, or other illustration suggested to be amended;
3. The suggested amendment such as the proposed amendatory language, if applicable, with new language underlined and language proposed for deletion in strikeout;
4. A statement of how the amendment is in the public interest;
5. In the case of an amendment to the development regulations, a statement of how the amendment complies with the comprehensive plan;
6. In the case of an amendment to the comprehensive land use plan map, a statement explaining how the subject parcels are physically suitable for the requested land use designation(s) and the anticipated land use development(s), including, but not limited to, access, provision of utilities, compatibility with neighboring land uses, and absence of physical constraints;
7. Any additional information deemed reasonably necessary by the Administrator to evaluate the proposed amendment; and
8. Application fee(s) as established in Chapter 18.02, Land Development Permit Application and Appeal Fees. (Ord. 846 § 1 (part), 2003)

18.03.040 Timing and process for consideration of suggested amendments.

A. Comprehensive plan and subarea plan amendments (text and map) shall be considered once annually. All amendments requested by the city or private parties shall be reviewed concurrently to ensure that the integrity of the comprehensive plan or subarea plan is preserved. All plan amendments are to be provided in writing and are to be submitted no later than December 31st of every year. Plan amendments shall be considered by the Planning Commission no later than April 30th of the following year and by the City Council within sixty (60) days of receipt of the recommended amendments.

B. Development regulation amendments may be initiated at any time.

C. The Planning Commission shall make recommendations to the City Council on all comprehensive plan matters, including amendments to the plan text and map, development regulations, and subarea plans.

D. Suggested amendments shall be considered by the City Council or Planning Commission, in duly advertised public hearings, public meetings, workshops, and other settings as warranted to ensure that each suggested amendment is thoroughly deliberated. Continued hearings may be held at the discretion of the city but no additional notices need be published.

E. Upon completion of the hearing or hearings on amendments to the comprehensive plan or subarea plan, the Planning Commission shall transmit a copy of its recommendations to the legislative body

through the Planning Advisor, who shall acknowledge receipt thereof and direct the Clerk to certify thereon the date of receipt. (Ord. 846 § 1 (part), 2003)

18.03.050 Public participation.

A. The public shall be made aware of the opportunity to suggest plan amendments and to comment on suggested amendments through methods including, but not limited to, direct mailings, newsletter and newspaper articles, legal advertisements, and notices posted in public places.

B. At least one (1) public hearing shall be held on any proposed amendment. Public notice requirements shall be as set forth in Chapter 18.01 of this code. (Ord. 846 § 1 (part), 2003)

18.03.060 Criteria for approval.

In order for an amendment to be approved, the council must find that:

A. The suggested amendment is in the public interest;

B. The suggested amendment is consistent with the provisions of the North Bonneville comprehensive land use plan;

C. In the case of an amendment to the comprehensive land use plan map, the subject parcels are physically suitable for the requested land use designation(s) and the anticipated land use development(s), including, but not limited to, access, provision of utilities, compatibility with neighboring land uses, and absence of physical constraints; and

D. The suggested amendment addresses a need which was improperly or inadequately addressed by the present text or map. (Ord. 846 § 1 (part), 2003)

18.03.070 Council action.

A. For comprehensive plan and subarea plan amendments, the City Council shall consider a recommended amendment within sixty (60) days of its receipt.

B. After considering any recommendations and public comments, the council shall approve, approve with modifications, disapprove, or remand the proposed amendment to the Planning Commission for further proceedings based on the criteria required by this chapter and any other applicable provisions. If the City Council remands the proposed amendment, it shall specify the time in which the Planning Commission shall report back to the City Council its findings and recommendations on matters referred to it.

C. Any amendment to the comprehensive plan or a subarea plan shall be adopted by resolution. An affirmative vote of not less than a majority of the total members of the City Council shall be required for adoption of a resolution to amend the comprehensive plan.

D. Any amendment to the development regulations shall be adopted by ordinance. And affirmative vote of not less than a majority of the total members of the City Council shall be required for adoption of an ordinance. (Ord. 846 § 1 (part), 2003)

18.03.080 Denial of suggested amendments.

When a suggested amendment to the comprehensive plan, a subarea plan, or development regulations is denied, the same amendment shall not be considered again for a period of at least one (1) year, unless the City Council determines that the amendment meets one (1) of the two (2) following criteria:

A. The amendment is essential to allow the siting of an employer who will bring more than twenty-five (25) jobs into the community within one (1) year; or

B. The City Council declares a state of emergency and adopts findings which clearly demonstrate that the amendment is essential to preserve or promote the general health, safety, or welfare of the city and/or its residents. (Ord. 846 § 1 (part), 2003)

Chapter 18.10

LAND USE NUISANCES

Sections:

- 18.10.010 Finding and purpose.**
- 18.10.020 Emergencies.**
- 18.10.030 Powers reserved.**
- 18.10.040 Building permit required.**
- 18.10.050 Definitions.**
- 18.10.060 Prohibited conduct.**
- 18.10.070 General authority regarding officer and/or improvement board.**
- 18.10.080 Building inspector is designated as officer.**
- 18.10.090 Duties of the officer.**
- 18.10.100 Duties of an improvement board.**
- 18.10.110 Rules and regulations.**
- 18.10.120 Preliminary investigation.**
- 18.10.130 Record of preliminary investigation.**
- 18.10.140 Finding of no violation.**
- 18.10.150 Preliminary investigation complaint.**
- 18.10.160 Preliminary investigation notice.**
- 18.10.170 Requirements for service of preliminary investigation complaint and notice.**
- 18.10.180 Determination of violation.**
- 18.10.190 Lis pendens filed with county auditor.**
- 18.10.200 Standards for determination of unfit building or nuisance.**
- 18.10.210 Standards for determination to require repair, vacation or demolition.**
- 18.10.220 Hearing on officer's preliminary investigation complaint and notice.**
- 18.10.230 Burden of proof at hearing on officer's preliminary investigation complaint and notice.**
- 18.10.240 Order to repair, vacate or demolish.**
- 18.10.250 Record for review by the appeals commission.**
- 18.10.260 Standards governing decision of appeals commission.**
- 18.10.270 Appeal to superior court.**
- 18.10.280 Enforcement.**
- 18.10.290 Assessment and lien on the real property.**
- 18.10.300 Cost of abatement and administrative fees.**
- 18.10.310 Summary.**
- 18.10.320 Severability.**
- 18.10.330 Effective date.**

18.10.010 Finding and purpose.

There exists within the City of North Bonneville dwellings which are unfit for human habitation, and buildings, structures and premises, or portions thereof, which are unfit for other uses, due to dilapidation, disrepair, structural defects, increasing the hazards of fire, accidents, or other calamities. It is necessary for the public health, safety, and welfare and to regulate, prevent and prohibit conditions which may constitute disorderly, disturbing, unsafe, unsanitary, fly-producing, rat-harboring and/or disease-causing places, conditions or objects. It is also necessary for the public social and economic welfare to regulate, prevent and prohibit conditions, which degrade the city's scenic attractiveness and livability, and its economic development. The purpose of this chapter is the abatement of such nuisances, to protect the public health, safety and welfare and promote the economic development of the city, in accordance with Chapter 35.80 RCW. It is also the purpose of this chapter to prevent and prohibit those conditions which

reduce the value of private property, interfere with the enjoyment of public and private property, create and are likely to constitute fire and other safety and health hazards, and generally create a menace to the health and welfare of the public and contribute to the depreciation of the character of neighborhoods and depreciation of property values. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.020 Emergencies.

The provisions of this chapter shall not prevent the Officer or any other officer of the City of North Bonneville or other governmental unit from taking any other action, summary or otherwise, to eliminate or minimize an imminent danger, health or safety of any person or property. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.030 Powers reserved.

Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the city, to enforce any provisions of this chapter or its ordinances or regulations, nor to prevent or punish violations thereof. The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law. Nothing in this chapter shall be construed to impair or limit in any way the power of the City of North Bonneville to define and declare nuisances and to cause their removal or abatement, by summary proceeding or otherwise. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.040 Building permit required.

Any work commenced pursuant to this chapter, including construction, repairs or alterations to rehabilitate any dwelling, building structure or premises may require a building permit in accordance with the provisions of Title 17 of this code. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.050 Definitions.

Unless specifically defined below, or unless context clearly requires a different meaning, terms used in this chapter shall have the meaning given them by this chapter adopted of the International Building Code.

"Abandoned" means any property, real or personal, which is uninhabited, or unattended and/or unoccupied, whether or not secured, or for which evidence indicates that no person is presently in possession, e.g., disconnected utilities, accumulated debris, disrepair, boarded up, uncompleted and/or vacant.

"Abatement" means for the purpose of this chapter, the correction of conditions, which render dwellings unfit for human habitation, and buildings, structures, premises or portions thereof unfit for other uses or which otherwise constitute a nuisance. Abatement occurs either by repairing, altering, improving, replacing, vacating, closing, removing, demolishing or otherwise remedying the condition in question by such means and in such a manner and to such an extent as the Officer, in his judgement based on the available information, determines is necessary in the interest of the general health, safety and welfare of the community.

"Appeals Commission" means the City Council for the City of North Bonneville.

"Board" means the Improvement Board or Officer, which may be established pursuant to the authority of RCW 35.80.030.

"Boarded-up building" means any building the exterior openings of which are closed by extrinsic devices or some other manner designed or calculated to be permanent, giving to the building the appearance of nonoccupancy or nonuse for an indefinite period of time.

"Building" includes any structure constructed for any purpose, whether or not said structure is completed or not and whether or not said structure is intended for dwelling purposes.

"City Council" means the City Council of the City of North Bonneville.

"Costs" means the city's actual expenses incurred to correct illegal conditions pursuant to the provisions of this chapter plus the administrative fee provided herein.

"Determination of violation" means the Officer's written findings of fact in support of a determination of violation pursuant to Section 18.10.180 after a hearing as provided in Section 18.10.220.

"Disposable package or container" means all packages or containers defined as by such rules and regulations adopted by the State of Washington Department of Ecology.

"Dwelling" means any building, or mobile home, factory-built house, or part thereof, built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

"Final order to repair, vacate or demolish" means the order issued by the Officer, after a hearing as provided in Section 18.10.220, or after appeal to the Appeals Commission pursuant to Section 18.10.250, or after appeal to the Superior Court pursuant to Section 18.10.250(G), which orders the owner to abate the unfit building or nuisance as provided in this section.

"Health Officer" means the head of the Skamania County Health Department, his authorized deputies or representatives.

"Interested person" means any person entitled to notice of a preliminary investigation complaint issued by the Officer under Section 18.10.160.

"Junk" includes the storage of all old appliances, equipment or parts thereof, all old iron or other scrap metal, cardboard, old lumber, old wood and mattresses, which items are not being used for their intended purpose, metal articles, broken stone or cement and discarded building materials and does not include orderly stacked firewood.

"Litter" means and includes all waste material, including but not limited to disposable packages or containers thrown or deposited on public or private property.

"Nuisance" includes:

1. A dwelling that is unfit for human habitation, and buildings, structures and premises or portions thereof which are unfit for other uses due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents or other calamities, inadequate ventilation and uncleanness, inadequate light or sanitary facilities, inadequate drainage overcrowding or other conditions which are inimical to the health and welfare of the residents of the City of North Bonneville;

2. A nuisance defined by any other state statute or North Bonneville ordinance;

3. A dangerous building as provided in the International Building Code;

4. A nuisance at common law, either public or private.

"Officer" as used herein means the current acting Building Inspector for the City of North Bonneville.

"Order to repair, vacate or demolish" means an order issued by the Officer, after a hearing as provided in Section 18.10.220, which orders the owner to abate the dwelling, building, structure or premises as provided in this section.

"Owner" means any person(s) having any interest in the real estate in question as shown upon the records of the office of the Skamania County Auditor, or who establishes his or her interest before the Officer, Board, or City Council. For the purpose of giving notice, the term "owner" also includes any person in physical possession.

"Person" means natural person(s), joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager(s), lessee(s), agent(s), servant(s), officer(s) or employee(s) or any of them.

"Preliminary investigation complaint" means the complaint prepared by the Officer which states in what respects the Officer finds that a dwelling, building, structure or premises is unfit for human habitation or other use or otherwise constitutes a nuisance as provided in this section.

"Premises" means any lot parcel, real estate, land, or portion of land whether improved or unimproved, and including partially completed structures, dwellings or buildings, adjacent sidewalks and parking strips and all areas in or upon a street or alley right-of-way which abut land privately owned, or occupied by a property owner or occupier.

"Public Officer" means any officer who is in charge of any department or branch of the government or municipality or county relating to health, fire, building regulation, or other activities concerning dwellings, buildings, structures, or premises in the municipality or county.

"Refuse" means vegetable or animal offal, discarded food, cans, bottles, waste paper, large tree limbs and all other waste substances from private and public establishments and from residences; but shall not

include small amounts of weeds, twigs, grass or other material resulting from the normal tending of lawns and gardens.

"Responsible person" means any party or parties in interest, agent(s), lessee(s), owner or other person occupying or having charge or control of any premises including any street and alley right-of-way, which abuts, said premises.

"Unfit building" means a dwelling, building, structure, premises or portions thereof, which are unfit for human habitation or other uses due to dilapidation, disrepair, structural defects, defects increasing the hazards of fire, accidents or other calamities, inadequate ventilation and uncleanness, inadequate light or sanitary facilities, inadequate drainage, overcrowding or other conditions which are inimical to the health, safety, and welfare of the occupants, neighboring residents, or the residents of the City of North Bonneville. A dwelling, building, structure, or premises may, but need not be, otherwise be established to be unfit for other uses if it constitutes a nuisance as defined in this section.

"Weed," "vegetable growth" and "horticultural growth" mean and include but are not limited to: trees, plants, shrubs, bushes, flowers, garden vegetables and grasses and further include all growths of every kind and character, whether domestic or wild, causing the obstruction or interference or detriment prohibited by this chapter. (Ord. 981, 2011; Ord. 833 §§ 1, 2 (part), 2003)

18.10.060 Prohibited conduct.

A. Where not otherwise provided by this chapter, state and federal laws, and any other applicable sections of the North Bonneville Municipal Code, including the provisions of the International Building Code adopted by reference therein, it shall be unlawful for any owner(s) or responsible person(s) to create, permit, maintain, suffer, carry on or allow, upon their premises an unfit building or any of the acts otherwise declared by this chapter to be nuisance.

B. Any Owner(s) or Responsible Person(s) who wilfully violate the terms of this chapter, shall be guilty of a misdemeanor as set forth in RCW 9A.04.040. A wilful violation may include, but shall not be limited to, any owner(s) or responsible person(s) who fail to take action to abate unfit buildings or nuisances after receipt of notice of a final order to repair, alter, improve or demolish pursuant to Section 18.10.050.

C. Any owner(s) or responsible person(s) who engage in conduct that is intended to unlawfully delay, harass or intentionally prevent any Officer, Public Officer or Local Governing Body from carrying out the provisions of this chapter shall be guilty of a misdemeanor as set forth in RCW 9A.04.040. (Ord. 981, 2011; Ord. 833 §§ 1, 2 (part), 2003)

18.10.070 General authority regarding officer and/or improvement board.

A. As defined in RCW 35.80.030(a), if an Officer is designated or appointed by the Mayor to carry out the provisions of this chapter, the Officer designated or appointed shall be limited to Public Officers of the municipality. Provided that, nothing herein shall prevent the Mayor from subsequently determining that the best interests of the city will be served by appointing or designating a separate Officer appointed solely for exercising the powers assigned by this chapter.

B. The Mayor shall designate or appoint in writing the Officer as the Officer authorized to carry out the provisions of this chapter. Subject to the provisions referenced above, the Officer's term shall continue for the length of time that said Officer contracts to provide services as a Public Officer of the city, or until a new Public Officer is designated or appointed by the Mayor.

C. If an Improvement Board is created, the Board shall be comprised of five (5) members. Said members shall be designated or appointed by the Mayor, and member terms shall continue for successive two (2) year terms. If an Improvement Board is created, a Public Officer, other than a member of the Improvement Board, may be designated to work with the Board and carry out the duties and exercise the powers assigned to said Public Officer by this chapter. Three (3) members of the Board shall constitute a quorum thereof for the transaction of business. Except as otherwise specified by law, a majority vote of the Board members present at a meeting shall be required and shall be sufficient to transact any business before the Board. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.080 Building inspector is designated as officer.

The Mayor shall designate and appoint the current acting Building Inspector for the City of North Bonneville as the Officer authorized to exercise the powers granted in Chapter 35.80 RCW, and assigned to said Officer pursuant to this chapter, as of the effective date of this chapter. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.090 Duties of the officer.

The Officer is the Chief Administrative Officer for the purposes of this chapter, and his duties and powers include:

- A. To determine which dwellings within the city are unfit for human habitation;
- B. To determine which buildings, structures, or premises are unfit for other use;
- C. To investigate all buildings and premises and other property conditions in the city and to investigate for the purpose of making examinations when the Officer has reasonable ground to believe there may be a violation of the provisions of this chapter, other state and federal laws, and any other applicable sections of the North Bonneville Municipal Code, including the provisions of the International Building Code adopted by reference therein;
- D. To prepare, serve and post complaints or notices and orders against dwellings, buildings or premises where the Officer has reasonable grounds to believe conditions exist that are prohibited by the provisions of this chapter, other state and federal laws, and any other applicable sections of the North Bonneville Municipal Code, including the provisions of the International Building Code adopted by reference therein;
- E. To administer oaths and affirmations, examine witnesses and receive evidence;
- F. To conduct hearings and render its findings of fact in support of any determinations made pursuant to the authority of the provisions of this chapter, state and federal laws, and any other applicable sections of the North Bonneville Municipal Code, including the provisions of the International Building Code adopted by reference therein;
- G. To do all things necessary and proper to carry out and enforce this chapter. (Ord. 981, 2011; Ord. 833 §§ 1, 2 (part), 2003)

18.10.100 Duties of an improvement board.

If the Mayor determines that the appointment of an Improvement Board would be in best interests of the city, pursuant to the authority referenced in Section 18.10.070(C), the Improvement Board's duties and powers shall include all of the powers and duties of the Officer that are specified throughout this chapter and within Chapter 35.80 RCW. The Improvement Board may adopt and publish such rules of procedure as are necessary or convenient to carry out and effectuate the purposes and provisions of this chapter and Chapter 35.80 RCW. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.110 Rules and regulations.

- A. The Officer may make and promulgate such rules and regulations as will effectuate the purposes of this chapter.
- B. The Officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter. These powers shall include those specified in Section 18.10.090. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.120 Preliminary investigation.

- A. After the city learns of a dwelling, building, structure or premises that may be in violation of the terms of this chapter, the Officer shall investigate to determine whether there are reasonable grounds to believe that such condition(s) exist. This investigation may include reasonable efforts to speak with the owner of the subject property, or responsible person residing thereon.
- B. Any requests to enter upon the premises shall be made in such manner as to cause the least possible inconvenience to the owner and/or responsible person. If the owner and/or responsible person denies or

resists the Officer's request to enter upon the premises, pursuant to RCW 35.80.030(3), on behalf of the city, and upon affidavit describing evidence in support therefor, the Officer may petition for an order from the Skamania County Superior Court permitting entry upon the premises for the purposes of enforcing the provisions of this chapter, state and federal laws, and any other applicable sections of the North Bonneville Municipal Code, including the provisions of the International Building Code adopted by reference therein. Provided that, nothing contained herein prevents the Officer from conducting its investigation based on observations that are readily apparent from the nearest public right-of-way. (Ord. 981, 2011; Ord. 833 §§ 1, 2 (part), 2003)

18.10.130 Record of preliminary investigation.

The Officer will make a record of the preliminary investigation, including written observations that describe any conditions the Officer has reason to believe may exist as specified in this section:

- A. Identification of the subject property and the owner or responsible person for said property;
- B. Documentation of inspection actions, including relevant dates, efforts to establish identity of owner(s) and/or efforts to contact the responsible person(s), any efforts to obtain the owner or responsible person's permission to inspect said building for violations not readily viewed from the nearest public right-of-way;
- C. Written observations regarding any conditions which the Officer has reason to believe render the dwelling, building, structure or premises unfit for human habitation or other use, or otherwise constitute a nuisance. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.140 Finding of no violation.

If, after preliminary investigation, the Officer determines that there is no reasonable ground to believe that a violation of the provisions of this chapter exists, he will note such determination for the record for the subject property and the matter shall be concluded. The Officer shall notify the complainant(s), owner(s), or other person(s) who have requested notice of his determination within thirty (30) days of making his inspection. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.150 Preliminary investigation complaint.

A. If, after preliminary investigation, the Officer determines that there are reasonable grounds to believe that the dwelling, building, structure, or other premises is unfit for human habitation or other use the Officer shall issue a preliminary investigation complaint which states the findings of fact in support of the Officer's determination that the dwelling, building, structure, or premises is unfit for human habitation or other use, or otherwise constitutes a nuisance.

B. Said complaint shall include:

- 1. Written observations regarding any conditions which the Officer has reason to believe render the dwelling, building, structure or premises dangerous or injurious to the occupants, neighboring dwellings, or other residents of the City of North Bonneville;
- 2. Written observations regarding any defects that the Officer has reason to believe may increase the hazards of fires, accidents, or other calamities;
- 3. Written observations regarding the adequacy of ventilation, light, or sanitary facilities;
- 4. Written observations regarding the degree of any dilapidation, disrepair, and or structural defects;
- 5. Written observations regarding any uncleanliness, overcrowding, or inadequate drainage;
- 6. Written observations regarding any conditions which the Officer has reason to believe otherwise render the dwelling, building, structure or premises a nuisance as defined in other state statutes or this code;
- 7. Written observations regarding any conditions which the Officer has reason to believe are in violation of the International Building Code provisions applicable to the use, occupancy, or construction of dwellings, buildings, structures or premises in the City of North Bonneville;

8. Written observations regarding any conditions which the Officer has reason to believe render the dwelling, building, structure or premises a dangerous building pursuant to the Uniform International Building Code;

9. Written observations regarding any conditions which the Officer has reason to believe suggest that dwelling, building, structure or premises contributes to the depreciation of the character of neighborhoods and depreciation of property values in the City of North Bonneville. (Ord. 981, 2011; Ord. 833 §§ 1, 2 (part), 2003)

18.10.160 Preliminary investigation notice.

A. If, after preliminary investigation, the Officer determines that there are reasonable grounds to believe that the dwelling, building, structure, or premises is unfit for human habitation or other uses the Officer shall issue a preliminary investigation notice which:

1. Advises the owner or responsible person of the standards set forth in Section 18.10.200, and that further specifies that the standards contained in Section 18.10.210 will govern any subsequent determination as to whether repairs, alterations or improvements may be made to the dwelling, building, structure or premises, or whether the dwelling, building, structure or premises must be vacated, closed removed or demolished.

2. Specifies the date and time that a hearing will be conducted by the Officer as set forth in Section 18.10.220. The hearing date which shall be no less than ten (10) nor more than thirty (30) days from the date of service of said preliminary complaint and notice and pursuant to Section 18.10.170.

3. States that the owner or responsible person shall have the right to file an answer to the preliminary investigation complaint, to appear in person or otherwise, and to give testimony at the time and place stated in the notice.

4. Specifies the deadline for any required correction of such condition(s) shall be a reasonable period of time based on all of the circumstances as determined by the Officer, but which shall not be more than sixty (60) days from the date of service of any final order to repair, vacate or demolish as provided in Section 18.10.050.

5. Advises the owner that if an order to repair, vacate or demolish is issued after a preliminary investigation complaint and hearing thereon, and the illegal conditions are not corrected by the owner or responsible person after the hearing on the Officer's determination and issuance of an order to repair, vacate or demolish as set forth in this section, the city may pursue the matter further by civil and/or criminal enforcement, including but not limited to, further proceedings pursuant to Section 18.10.060;

6. Advises the owner that following exhaustion of any rights of appeal, if the owner fails to comply with any final order to repair, vacate or demolish, the Officer or Appeals Commission may direct or cause such dwelling, building, structure, premises or portion thereof to be repaired, altered, improved, vacated and closed, removed or demolished and that the amount of such costs to repair, alter, improve, vacate and close, remove or demolish shall be assessed against the real property upon which such costs were incurred, unless such amount is previously paid by the owner. Said costs, upon verification by the Treasurer, which shall be an assessment on the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with the same interest at such rates and in such manner as provided for in RCW 84.56.020 as now or hereinafter amended, for delinquent taxes, and when collected to be deposited to the credit of the general fund of the municipality.

7. Advises the owner that the assessment shall constitute a lien against the property which shall be of equal rank with the state, county and municipal taxes. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.170 Requirements for service of preliminary investigation complaint and notice.

A. If, after a preliminary investigation of any dwelling, building, structure, or premises, the Officer finds that there are reasonable grounds to believe that it is unfit for human habitation or other uses, or otherwise constitutes a nuisance, he shall cause to be served a complaint stating in what respects the dwelling, building, structure or premises is unfit for human habitation or other use, or otherwise

constitutes a nuisance. Said complaint shall be served either personally or by certified mail, with return receipt requested, upon all persons having any interest therein, as shown upon the records of the Skamania County Auditor's Office, and shall be posted in a conspicuous place on such property.

B. If the whereabouts of any of such persons is unknown and the same cannot be ascertained by the Officer in the exercise of reasonable diligence and the Officer makes an affidavit to that effect, then service of such preliminary investigation complaint and notice upon such persons may be made either by personal service or by mailing a copy of the preliminary investigation complaint and notice by certified mail, postage prepaid, return receipt requested, to each such person at the address of the building or premises involved in the proceedings and mailing a copy of the preliminary investigation complaint and notice by first-class mail to any address of each such person in the records of the County Assessor or the County Auditor for the county where the property is located.

C. A copy of the preliminary investigation complaint shall also be filed with the Auditor of the county in which the dwelling, building, structure or premises is located and such filing of the complaint shall have the same force and effect as other lis pendens notices provided by law. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.180 Determination of violation.

(1) The Officer, after preliminary investigation and hearing, or the Appeals Commission, after the appeal hearing provided in this chapter, may determine based on all the evidence reviewed at the hearing, or on appeal, that a dwelling, building, structure, or premises or portion thereof is unfit for human habitation or other use or otherwise constitutes as nuisance and issue an order to repair, vacate or demolish in accordance with the standards set forth in this chapter.

(2) The Officer shall cause his determination of violation to be in writing and shall state those findings of fact that are in support of the Officer's determination that the dwelling, building, structure, premises or portion thereof is unfit for human habitation or other use or otherwise constitutes a nuisance. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.190 Lis pendens filed with county auditor.

A copy of such final order to repair, vacate or demolish shall also be filed with the Auditor of the county in which the dwelling, building, structure, premises or portion thereof is located, and such filing of the final order to repair, vacate or demolish shall have the same force and effect as other lis pendens notices provided by law. Provided that, if the owner appeals the Officer's decision the order to repair, vacate or demolish shall be recorded upon issuance and service of a final order to repair, vacate or demolish according to Section 18.10.050. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.200 Standards for determination of unfit building or nuisance.

A. If the Officer, or the Appeals Commission, finds that conditions exist in such dwelling, building, structure, premises or portion thereof that render them unfit for human habitation or other use or otherwise constitute a nuisance it may proceed to enforce all rights and remedies afforded by this chapter, other state laws, and any other applicable sections of the North Bonneville Municipal Code, including the provisions of the International Building Code adopted by reference therein.

B. In making a determination as to whether a dwelling, building, structure, premises or portion thereof is unfit for human habitation or other uses or otherwise constitutes a nuisance, the Officer, or Appeals Commission, may consider whether there is a reason to believe that any of the following conditions may exist:

1. Dilapidation;
2. Disrepair;
3. Structural defects;
4. Defects increasing the hazards of fire, accidents or other calamities, including, but not limited to, whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property;

5. Inadequate ventilation;
6. Uncleanliness;
7. Inadequate light;
8. Inadequate sanitary facilities;
9. Inadequate drainage;
10. Substandard conditions;
11. Other conditions which may affect the fitness of the building or premises for human habitation or other purposes;
12. Other conditions which indicate that the dwelling, building, structure or premises devalue the property or surrounding property;
13. Other conditions that tend to establish a detrimental effect on the health, safety, and welfare of the occupants, the neighboring residences, of the residents of the City of North Bonneville;
14. Other conditions that appear to constitute a dangerous building pursuant to the International Building Code;
15. Any other conditions that appear to be in violation of any other state or local ordinances;
16. Any other conditions that appear to constitute a nuisance at common law, either public or private. (Ord. 981, 2011; Ord. 833 §§ 1, 2 (part), 2003)

18.10.210 Standards for determination to require repair, vacation or demolition.

A. If any of the conditions identified in Section 18.10.200 or other conditions are found to exist to an extent that is likely to be dangerous or injurious to the health, welfare or safety of occupants of the dwelling, building, structure, premises or portion thereof, to the occupants of neighboring buildings, or other residents of the City of North Bonneville, the Officer shall issue an order that requires the owner to repair, vacate and/or demolish based on the Officer's observations and any other information made available to the Officer at the hearing.

B. In making determinations as to whether to repair, vacate, and/or demolish the dwelling, building, structure, premises or portion thereof, the Officer or Appeals Commission may consider the following standards:

1. Whether any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions appear have materially less resistance to winds or earthquakes than is required in the case of similar new construction;
2. Whether vertical members list, lean or buckle to the extent that a plumb line passing through the center of gravity falls outside the middle third of its base;
3. Whether the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting members, or 50% damage or deterioration of its nonsupporting members, enclosing outside walls or coverings;
4. Whether the building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50% or in any supporting part, member, or portion less than 66% of the strength, fire resisting qualities or characteristics, or weather resisting qualities or characteristics required by law in the case of new construction;
5. Whether the estimated cost of restoration exceeds 60% of the assessed value of the building;
6. Whether the building has been damaged by fire or other calamity, the cost of restoration exceeds 30% of the value of the building and it has remained vacant for 6 months or more;
7. Whether the dwelling, building, structure, premises or portion thereof violates any of the International Building Code Standards adopted by the city pursuant to Chapter 17.04 of this code.

C. Value shall be determined by reference to a current edition of "Building Valuation Data" published by the International Conference of Building Officials or, if not published, as determined by the Officer. Cost of restoration is the actual estimated cost, which may be determined in the same manner as "value".

D. The Officer, or Appeals Commission if the Officer's order has been appealed, shall be entitled to issue an order to repair, vacate or demolish which states recommended actions in the alternative.

E. The Officer, or Appeals Commission shall be authorized to issue any order to repair, vacate or demolish based on observations of the premises and any additional information made available at the hearing. The duty to make determinations pursuant to this section shall be a public duty and shall in no way create any other relationship between the Officer and owner or responsible person. (Ord. 981, 2011; Ord. 833 §§ 1, 2 (part), 2003)

18.10.220 Hearing on officer's preliminary investigation complaint and notice.

A. The Officer shall hold a hearing for the purpose of making any determination of violation as provided in Section 18.10.180 and for the purpose of determining whether an order to repair, vacate or demolish the dwelling, building, structure, or premises will be issued as provided in Section 18.10.050. The hearing will be canceled if the Officer approves the owner's completed corrective action at least forty-eight (48) hours before the scheduled hearing and the Officer has provided the owner and/or responsible person and the city with written notice that verifies completion of the successful abatement of the illegal conditions.

B. The Officer shall conduct a hearing pursuant to its adopted rules of procedure. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Officer.

C. The Officer or his or her designee, the owner and other parties entitled to be served with the Officer's determination of violation and order to repair, vacate or demolish may participate as parties in the hearing and each party may call witnesses. Any complainant or person affected by the illegal conditions may appear and present evidence. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.230 Burden of proof at hearing on officer's preliminary investigation complaint and notice.

A. The city shall have the burden of demonstrating by a preponderance of the evidence that the building is unfit for human habitation or other uses or that it otherwise constitutes a nuisance, and that required the corrective action is reasonable, based on the Officer's observations.

B. The Officer's determination shall be accorded substantial weight.

C. If the owner or other persons with interest of record fail to appear at the scheduled hearing, the Officer may enter an order under subsection D of this section, and shall note the default.

D. If, after considering evidence by the owner and other interested parties, the Officer determines that the dwelling, building, structure, or premises is unfit for human habitation or other uses or that it otherwise constitutes a nuisance, he shall issue and cause to be served upon the owner and other persons entitled to notice of the Officer's order to repair, vacate or demolish in accordance with Section 18.10.240(H). (Ord. 833 §§ 1, 2 (part), 2003)

18.10.240 Order to repair, vacate or demolish.

Where an order to repair, vacate or demolish has been issued by the Officer in accordance with this section, the Officer or his designee shall post in a conspicuous place on said property, the order to repair, alter, improve, vacate or demolish which:

A. States its findings of fact and conclusions in support of such order to repair, vacate or demolish;

B. Requires the owner or responsible party, within the time specified in the order to:

1. Repair, alter or improve such dwelling, building, structure, or premises to render it fit for human habitation or other uses;

2. Vacate the dwelling, building, structure or premises or portion thereof;

3. Remove or demolish the dwelling, building, structure or premises or portion thereof;

4. The Officer may require any action pursuant to subsections (B)(1) through (3) of this section, including alternate courses of action. The Officer's determination shall be based on the standards specified in Section 18.10.210, the Officer's observations during the Officer's preliminary investigation, and any additional information presented at the hearing conducted pursuant to Section 18.10.220.

C. The order shall further provide that any action required pursuant to subsections (B)(1) through (3) of this section shall be completed within a reasonable period of time, based on all of the circumstances as

determined by the Officer, which period of time shall not be more than sixty (60) days from the date of final order to repair, vacate or demolish as provided in Section 18.10.050;

D. The order shall state the city's costs and administrative fees which have been incurred as a consequence of the illegal conditions, and shall state that such costs and that such fees shall be charged to the owner and assessed against the real property if they are not paid timely;

E. The order shall state that if the owner or responsible party, following exhaustion of his or her rights to appeal, fails to comply with the final order to repair, vacate or demolish the dwelling, building, structure, premises, the city may direct or cause such dwelling, building, structure, premises to be repaired, altered, improved, vacated, closed, removed or demolished and that the costs of such abatement by the city shall be charged to the owner and assessed against the real property where the abatement occurs unless such amount is previously paid by the owner or responsible person;

F. The order shall further provide that unless the owner or responsible person files an appeal as directed in the order or complies with the terms of the order, the city shall have the power, without further notice or proceedings, to vacate, secure the building or premises, abate the nuisance, and do any act required of the owner in the order of the Officer or Appeals Commission, and to charge any expenses incurred thereby to the owner and assess them against the property;

G. The order shall advise the owner or responsible person that any appeal shall be filed with the Appeals Commission in the manner designated in the order within thirty (30) days from the date of service;

H. The Officer shall serve the owner or other interested person with a copy of the officer's order to repair, vacate or demolish in the same manner as is provided Section 18.10.170;

I. If no appeal of the Appeals Commission is filed, a copy of such order to repair, vacate or demolish shall be filed with the Auditor of Skamania County and shall be a final order to repair, vacate or demolish as provided in Section 18.10.050. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.250 Record for review by the appeals commission.

A. All matters submitted to the Appeals Commission must be resolved by the Appeals Commission within sixty (60) days from the date of filing therewith.

B. The Appeals Commission shall conduct its hearing, which shall be tape recorded, at a special meeting called solely for the purposes of reviewing the Officer's determination of violation and order to repair, vacate or demolish.

C. The Appeals Commission shall consider the preliminary investigation complaint and notice and any other evidence relied upon by the Officer in support thereof. The findings of fact and any other evidence in support of the Officer's determination of violation at the hearing on officer's determination, the owner or responsible person's filed answer (if any), any other evidence that was offered in support thereof at the hearing on officer's determination of violation. The commission's review is on the record, not de novo. In the absence of good cause, the Appeals Commission will not accept new evidence or evidence that has not been made available to the Officer.

D. The commission shall review the record and such supplemental evidence as is permitted under subsection C of this section. The commission may grant relief only if the party seeking relief has carried the burden of establishing by a preponderance of the evidence that the Officer has violated standards set forth in subsections (B)(1) through (4) of Section 18.10.260.

E. A record of the proceedings shall be made and kept for at least three (3) years or until the matter is final, whichever is longer.

F. The commission shall cause its findings of fact and order to be made in writing; provided that the commission may adopt the Officer's findings in support of a determination of violation pursuant to Section 18.10.180 and the Officer's order to repair, vacate or demolish, or so much thereof as supports its decision.

G. The order of the commission shall state that the owner has the right to petition the Superior Court of Skamania County for an injunction restraining the Officer from carrying out the provisions of the order within thirty (30) days from the date of the posting and service of the order.

H. The commission's findings and order shall be served upon the same persons and posted in the same manner as set forth in Section 18.10.170.

I. Any action taken by the commission shall be final sixty (60) days after the filing of a notice of appeal unless continued with consent of the owner or occupant.

J. The commission's findings of fact and order shall be enforced in the same manner and bear the same legal consequences as if issued by the Officer and shall be subject to review only as provided in this section.

K. A transcript of the appeal hearing before the commission shall be made available to the owner or other responsible person upon demand at the requestor's expense. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.260 Standards governing decision of appeals commission.

A. The Appeals Commission shall approve, reverse, remand or modify the findings in support of a determination of violation or order to repair, vacate or demolish issued by the Officer. The Appeals Commission shall transcribe its findings of fact and decision to approve, reverse, remand or modify the findings in support of a determination of violation and order to repair, vacate or demolish within sixty (60) days from the date of filing therewith.

B. The Appeals Commission shall reverse the Officer's findings in support of a determination of violation and/or the Officer's order to repair, vacate or demolish only if the commission finds:

1. That the Officer engaged in unlawful procedure or failed to follow the procedures prescribed in this chapter, unless the error was harmless;

2. That the Officer's decision is outside the authority or jurisdiction of the Officer as provided by RCW Chapter 35.80 and this chapter;

3. The Officer was not properly authorized to take action pursuant to this RCW 35.80 and this chapter;

4. The Officer's actions are arbitrary and capricious.

C. If the Appeals Commission approves the Officer's determination that the dwelling, building, structure or premises is unfit for human habitation or other uses, or otherwise constitutes a nuisance, it shall advise the owner or responsible person of its decision in writing and advise the owner or responsible person that a transcript of the findings of fact of the Appeals Commission shall be made available to the owner or other responsible person(s) upon request, at the requestor's expense. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.270 Appeal to superior court.

Any interested person affected by an order issued by the Appeals Commission may, within thirty (30) days after the posting and service of the order, petition to the Superior Court for an injunction restraining the city from carrying out the provisions of the order. Such trial shall be heard de novo. In all such proceedings the court is authorized to affirm, reverse, or modify the order of the Appeals Commission. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.280 Enforcement.

If the owner or responsible party, following exhaustion of his rights to appeal, fails to comply with the final order to repair, vacate or demolish and fails to either repair, alter, improve, vacate, close, remove or demolish the dwelling, building, structure or premises, the Officer may direct or cause such dwelling, building, structure, or premises to be repaired, altered, improved, vacated, closed, removed or demolished. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.290 Assessment and lien on the real property.

A. The amount of the city's cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition or the abatement of any unfit building or nuisance as defined in this chapter, including the administrative fees established in this chapter, shall be assessed against the owner and shall

be a lien against the real property upon which such costs and fees were incurred unless such amount is previously paid.

B. The City Clerk/Treasurer or his or her designee, shall certify any such assessment amount due and owing to the city or to the owner and thereafter enter said amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as provided for in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected to be deposited to the credit of the general fund of the city.

C. If the dwelling, building, structure, premises or portion thereof, is removed or demolished by the city, the city shall, if possible, sell the materials of such dwelling, building, structure, premises, or nuisance and shall credit the proceeds of such sale against the cost of the removal or demolition. If there be any balance remaining, it shall be paid to the parties entitled thereto, as determined by the Officer, and after deducting the city's costs and administrative fees incident thereto. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.300 Cost of abatement and administrative fees.

A. The costs of abatement, repair, alteration or improvement, or vacating and closing, or removal or demolition, when such actions are performed at the city's cost, shall be assessed against the real property upon which such costs were incurred unless paid. The Officer shall forward a report of such unpaid costs to the City's Clerk/Treasurer, who shall certify them to the Skamania County Tax Assessor for assessment on the tax rolls, as provided by RCW 35.80.030(h).

B. Bids for demolition or repair shall be let only to a licensed contractor. The contract documents shall provide that the value of the materials and other salvage of the property shall be credited against the costs of the demolition. The contract documents may require bidders to estimate the salvage value of the property and by claiming the salvage; reduce the amount of his or her bid accordingly. The contract price fixed by acceptance of such a bid shall not be adjusted to reflect the actual salvage value. Such bids may be let prior to the time for compliance or appeal, but shall not be binding or accepted until the order to repair, vacate or demolish is final as defined in Section 18.10.050. The Officer shall have the authority to sign the contract on behalf of the city.

C. Actual costs and expenses will be assessed in accord with the provisions of this section.

D. In addition to actual abatement costs, the following administrative fee, which shall include professional fees, shall be assessed and collected in the same manner for such dwelling, buildings, structures or premises or portions thereof, that are determined to be unfit for human habitation or other uses, or otherwise constitute a nuisance.

1. Where abatement is accomplished and approved by the Officer prior to an Appeals Commission hearing, the administrative fee shall be five hundred dollars (\$500.00).

2. Where abatement is accomplished and approved by the Officer less than forty-eight (48) hours prior to an Appeals Commission hearing, the administrative fee shall be one thousand dollars (\$1,000.00).

3. Where abatement is accomplished by the city following hearing or default of the property owner(s), the administrative fee shall be two thousand dollars (\$2,000.00).

E. The Appeals Commission may, upon recommendation from the Officer, modify the amount, methods, or time of payment of such fees as the condition of the property and the circumstances of the owner may warrant. In determining such adjustments, the commission may reduce the costs to an owner who has acted in good faith and would suffer extreme financial hardship. The Appeals Commission may, upon recommendation from the Officer, increase the administrative fees if it appears that the scheduled fees are inadequate to make the city whole with respect to its actual administrative costs. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.310 Summary.

The attached chapter summary is approved and the City Clerk is directed to publish the same in the county's official newspaper pursuant to RCW 35A.13.200. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.320 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this chapter or any provision of the North Bonneville Municipal Code established by the ordinance codified in this chapter, is declared invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this chapter or other provisions of North Bonneville Municipal Code established by the ordinance codified in this chapter. (Ord. 833 §§ 1, 2 (part), 2003)

18.10.330 Effective date.

This chapter shall be in full force and effect five (5) days after its passage, approval and publication as provided by law. (Ord. 833 §§ 1, 2 (part), 2003)