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2 **40.510.040 Type IV Process – Legislative Decisions**

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4 A. Decision.

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6 1. The provisions of this section apply to all Type IV legislative decisions, which include and are
7 limited to adoption or amendment, pursuant to the Growth Management Act (GMA), Chapter
8 36.70A RCW and Chapter 40.560, of the following:
9 a. comprehensive plan;
10 b. county-initiated rezones;
11 c. docket proposals;
12 d. development regulations; and
13 e. Shoreline Master Program (SMP) pursuant to the Shoreline Management Act, Chapter
14 90.58 RCW, and Chapter 40.460.
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16 2. This section is intended to supplement, and not to limit, county authority and procedures for
17 adopting legislation.
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19 3. When revisions to the comprehensive plan are made through the periodic update pursuant to
20 RCW 36.70A.130(5), the procedures in this chapter are to be used as a guide, with the exception
21 that public noticing per 40.510.040(E)(1)(b)(4) is not required.
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24 B. Process.

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26 1. Adoption or amendment of the comprehensive plan and development regulations is a legislative
27 decision, rather than a project specific decision. The legislative process includes a public hearing
28 before the Clark County Council and may include a public hearing before the planning
29 commission. It is designed to solicit a broad range of public input at all levels pursuant to RCW
30 36.70A.035.
31
32 2. A Type IV decision shall be final and conclusive unless a land use petition is timely filed to the
33 growth management hearings board in accordance with RCW 36.70A.280 and RCW 36.70A.290,
34 except as otherwise provided by law.
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36 3. Council legislative action on other matters is governed by the Clark County Home Rule Charter
37 and other applicable law, and is not subject to this section.
38

39 C. Procedure.

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41 1. A Type IV procedure may include one or more public hearings before the planning commission
42 and includes one or more public hearings before Council.
43
44 2. Planning commission review is not required for interim actions, moratoria, and emergency
45 legislation authorized by RCW 35.63.200, RCW 36.70A.130(2)(b), or RCW 36.70A.390 as
46 described in Section 40.510.040(H).

47 D. Staff Report to the Planning Commission.

- 48
49 1. At least fifteen (15) calendar days before the date of the first planning commission hearing, the
50 responsible official shall:
51 a. issue a written staff report and State Environmental Policy Act (SEPA) official determination
52 regarding the application(s) pursuant to Chapter 40.570;
53 b. post the staff report and SEPA official determination to the Clark County website; and

- 1 c. provide a copy of the staff report at reasonable charge to any member of the public who
2 requests it.

3 E. Public Notice.

- 4 1. For a site-specific application or a county initiated site-specific request under Section 40.560, at
5 least fifteen (15) calendar days before the date of the first planning commission hearing, the
6 responsible official shall:

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8 a. Prepare a notice of application that includes the following information:

- 9 (1) The case file number(s);
10 (2) A description and map(s) of the area that will be affected by the application, if
11 approved, which is reasonably sufficient to inform the reader of its location;
12 (3) A summary of the proposed application(s);
13 (4) The date, time, and place, where information about the application may be examined
14 and the name and contact information for the county representative to contact about
15 the application;
16 (5) A statement that the notice is intended to inform potentially interested parties about
17 the hearing and to invite interested parties to appear orally or by written statement at
18 the hearing;
19 (6) The date, time, and place of the Planning Commission hearing, and a statement that
20 the hearing will be conducted in accordance with the rules of procedure adopted by
21 the Planning Commission;
22 (7) A statement that a staff report and, whenever possible, a SEPA review document, will
23 be available for inspection at no cost at least fifteen (15) calendar days before the
24 hearing and will be provided at reasonable cost; and
25 (8) A general explanation of the process for submitting testimony and the conduct of the
26 hearing.

- 27
28 b. Send written notice prepared under Section 40.510.040(E)(1)(a) to:

- 29 (1) The applicant and the applicant's representative;
30 (2) Any person who has submitted a written request for notice of such matters;
31 (3) The neighborhood association in whose area the subject property is situated, based
32 on the list of county recognized neighborhood associations kept by the responsible
33 official; and
34 (4) Owners of record of property and residents within three hundred (300) feet of the
35 subject property if the subject property is inside the urban growth boundary, or to
36 owners of property and residents within five hundred (500) feet of the subject
37 property if the subject property is outside the urban growth boundary;
38 (i) The records of the County Assessor shall be used for determining property
39 owners of record. The failure of a property owner to receive notice shall not affect
40 the validity of the decision if the notice was sent. A Clark County Ship Request
41 Form and a copy of the mailing labels executed by the person who did the
42 mailing shall be evidence that notice was mailed to parties listed or referenced in
43 the certificate; and
44 (ii) If the applicant owns property adjoining the property that is the subject of the
45 application, then notice shall be mailed to owners of property within five hundred
46 (500) feet of the boundary of the property owned by the applicant adjoining or
47 contiguous to the subject property; and
48 (5) Agencies with jurisdiction.

- 49
50 c. Publish in a newspaper of general circulation a summary of the notice, including the date,
51 time, and place of the hearing, staff contact information, and a summary of the subject of the
52 Type IV process.
53

1 d. Provide other notice deemed appropriate and necessary by the responsible official based on
2 the subject of the Type IV process.

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4 2. For comprehensive plan amendments or development regulations implementing the
5 comprehensive plan under Chapter 40.560, at least fifteen (15) calendar days before the date of
6 the first planning commission hearing, the responsible official shall:

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8 a. Publish in a newspaper of general circulation a summary of the notice, including the date,
9 time, and place of the hearing, staff contact information, and a summary of the subject of
10 the Type IV process pursuant to Section 40.510.040(E)(1)(a).

11 b. Provide other notice deemed appropriate and necessary by the responsible official based
12 on the subject of the Type IV process pursuant to RCW 36.70A.035 and RCW
13 36.70A.140.
14

15 F. Planning Commission Hearings.

16 1. Planning Commission hearings shall be conducted in accordance with the rules of procedure
17 adopted by the Planning Commission; provided, that the Planning Commission Chair shall
18 preside over the meeting and may modify the procedural rules as necessary and reasonable. A
19 public hearing shall be recorded electronically.

20 2. At the conclusion of a planning commission hearing, the planning commission shall announce
21 one (1) of the following actions:

22 a. That the planning commission recommends against or in favor of approval of the proposal,
23 with or without amendment, or that the planning commission will recommend neither against
24 nor for approval of the application(s), together with a brief summary of the basis for the
25 recommendation and posted to the website within three (3) business days following the
26 hearing.

27 b. The planning commission recommendation shall be by the affirmative vote of the majority of
28 the quorum present.

29 c. A hearing may be continued if it extends past 10p.m. on any evening. If the hearing is
30 continued to a place, date, and time certain, then additional notice of the continued hearing
31 need not be mailed, published or posted. If the hearing is not continued to a place, date, and
32 time certain, the county shall provide notice of the continued hearing as though it was the
33 initial hearing before the planning commission.
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35 G. Council Hearings

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38 1. Council hearings shall be conducted in accordance with the rules of procedure adopted by the
39 Council; provided, that the Council Chair shall preside over the meeting and may modify the
40 procedural rules as necessary and reasonable. A public hearing shall be recorded electronically.

41
42 2. At least 60 days before the council hearing, the responsible official shall issue a notification to the
43 Department of Commerce pursuant to WAC 365-196-630 of its intent to propose adoption or
44 amendment of a comprehensive plan or development regulation.

45
46 3. At least fifteen (15) calendar days before the date of the first Council hearing, the responsible
47 official shall:

48 a. Provide a written copy of the Planning Commission's recommendation to the Council;

49 b. Prepare a notice that includes the information listed in Section 40.510.040(E) except the notice
50 shall be modified as needed:

51 (1) To reflect any changes made in the application(s) during the planning commission review;

- 1 (2) To reflect that Council will conduct the hearing, and date, time, and place of the Council
2 hearing; and
3 (3) To state that the planning commission recommendation and SEPA determination are
4 available for inspection at no cost and copies will be provided at reasonable cost;
5 c. Provide a written copy of that notice to the parties identified in Section 40.510.040(E);
6 d. Publish in a newspaper of general circulation a summary of the notice, including the date,
7 time, and place of the hearing and a summary of the subject of the Type IV process; and
8 e. Provide other notice deemed appropriate and necessary by the responsible official based on
9 the subject of the Type IV process.

- 10 4. At the conclusion of its initial hearing, Council may continue the hearing or may adopt, modify or
11 give no further consideration to the application or recommendations. If the hearing is continued to
12 a place, date, and time certain, then additional notice of the continued hearing is not required to
13 be provided. If the hearing is not continued to a place, date and time certain, then notice of the
14 continued hearing shall be given as though it was the initial hearing before the council.

15 H. Interim Actions, Moratoria, and Emergencies.

- 16 1. The Council may adopt a Type IV action as an interim action, a moratorium, or an emergency
17 under RCW 35.63.200 or RCW 36.70A.390.
18 2. Except as provided in Section 40.510.040(E)(2), the Council may adopt a Type IV action by
19 emergency action only after holding at least one public hearing following public notice as
20 described in Section 40.510.040(E)(2).
21 3. Pursuant to RCW 35.63.200 and RCW 36.70A.390, the Council may adopt a Type IV action that
22 is a moratorium, interim zoning map, interim zoning ordinance, or interim official control without
23 holding a public hearing, if within at least sixty (60) days of its adoption the Council holds a public
24 hearing following public notice as described in Section 40.510.040(E)(2) and adopts findings in
25 support of the action.

26 A. Procedure.

27 A Type IV procedure may require one (1) or more hearings before the planning commission and does
28 require one (1) or more hearings before the board.

29 B. Public Notice.

30 At least fifteen (15) calendar days before the date of the first planning commission hearing for an
31 application subject to Type IV review, the responsible official shall:

- 32 1. Prepare a notice of application that includes the following information:
33 a. The case file number(s);
34 b. A description and map of the area that will be affected by the application, if approved, which is
35 reasonably sufficient to inform the reader of its location;
36 c. A summary of the proposed application(s);
37 d. The place, days and times where information about the application may be examined and the
38 name and telephone number of the county representative to contact about the application;
39 e. A statement that the notice is intended to inform potentially interested parties about the
40 hearing and to invite interested parties to appear orally or by written statement at the hearing;
41 f. The designation of the review authority, the date, time and place of the hearing, and a
42 statement that the hearing will be conducted in accordance with the rules of procedure
43 adopted by the review authority;
44 g. A statement that a staff report and, whenever possible, a consolidated SEPA review or
45 integrated growth management document, will be available for inspection at no cost at least
46 fifteen (15) calendar days before the hearing and will be provided at reasonable cost; and
47 h. A general explanation of the requirements for submission of testimony and the procedure for
48 the conduct of hearings.

- 1 ~~2. Mail a copy of a notice prepared under Section 40.510.040(B)(1) to:~~
2 ~~a. Parties who request notice of such matters;~~
3 ~~b. The neighborhood association in whose area the property in question is situated, based on~~
4 ~~the list of county recognized neighborhood associations kept by the responsible official; and~~
5 ~~c. To other people the responsible official believes may be affected by the proposed action;~~
- 6 ~~3. Publish in a newspaper of general circulation a summary of the notice, including the date, time~~
7 ~~and place of the hearing and a summary of the subject of the Type IV process; and~~
- 8 ~~4. Provide other notice deemed appropriate and necessary by the responsible official based on the~~
9 ~~subject of the Type IV process.~~

10 ~~C. Staff Report.~~

11 ~~At least fifteen (15) calendar days before the date of the first hearing, the responsible official shall~~
12 ~~issue a written staff report, SEPA evaluation and recommendation regarding the application(s), shall~~
13 ~~make available to the public a copy of the staff report and consolidated SEPA evaluation for review~~
14 ~~and inspection, and shall mail a copy of the consolidated recommendation to the review authority.~~
15 ~~The responsible official shall mail or provide a copy of the staff report at reasonable charge to other~~
16 ~~parties who request it.~~

17 ~~D. Public Hearings.~~

- 18 ~~1. Public hearings shall be conducted in accordance with the rules of procedure adopted by the~~
19 ~~review authority, except to the extent waived by the review authority. A public hearing shall be~~
20 ~~recorded electronically.~~
- 21 ~~2. At the conclusion of a planning commission hearing, the planning commission shall announce one~~
22 ~~(1) of the following actions:~~
23 ~~a. That the hearing is continued. If the hearing is continued to a place, date and time certain,~~
24 ~~then additional notice of the continued hearing is not required to be mailed, published or~~
25 ~~posted. If the hearing is not continued to a place, date and time certain, then notice of the~~
26 ~~continued hearing shall be given as though it was the initial hearing before the planning~~
27 ~~commission; or~~
28 ~~b. That the planning commission recommends against or in favor of approval of the~~
29 ~~application(s) with or without certain changes, or that the planning commission will~~
30 ~~recommend neither against nor for approval of the application(s), together with a brief~~
31 ~~summary of the basis for the recommendation.~~
- 32 ~~3. At least fifteen (15) calendar days before the date of the first board hearing, the responsible~~
33 ~~official shall:~~
34 ~~a. Prepare a notice that includes the information listed in Section 40.510.040(B)(1) except the~~
35 ~~notice shall be modified as needed:~~
36 ~~(1) To reflect any changes made in the application(s) during the planning commission~~
37 ~~review;~~
38 ~~(2) To reflect that the board will conduct the hearing and the place, date and time of the~~
39 ~~board hearing; and~~
40 ~~(3) To state that the planning commission recommendation, staff report, and SEPA~~
41 ~~evaluation are available for inspection at no cost and copies will be provided at~~
42 ~~reasonable cost;~~
43 ~~b. Mail a copy of that notice to the parties identified in Section 40.510.040(B)(2) and to parties~~
44 ~~who request it in writing;~~
45 ~~c. Publish in a newspaper of general circulation a summary of the notice, including the date,~~
46 ~~time and place of the hearing and a summary of the subject of the Type IV process; and~~

1 ~~d. Provide other notice deemed appropriate and necessary by the responsible official based on~~
2 ~~the subject of the Type IV process.~~

3 ~~4. At the conclusion of its initial hearing, the board may continue the hearing or may adopt, modify or~~
4 ~~give no further consideration to the application or recommendations. If the hearing is continued to~~
5 ~~a place, date and time certain, then additional notice of the continued hearing is not required to~~
6 ~~be provided. If the hearing is not continued to a place, date and time certain, then notice of the~~
7 ~~continued hearing shall be given as though it was the initial hearing before the board.~~

8 ~~(Amended: Ord. 2007-11-13)~~

9 ~~E. Appeal of Board's Decision.~~

10 ~~The action of the board in approving or rejecting a recommendation of the planning commission shall~~
11 ~~be final and conclusive unless a land use petition is timely filed in superior court pursuant to~~
12 ~~RCW 36.70C.040 (Section 705 of Chapter 347, Laws of 1995); provided, that no person having actual~~
13 ~~prior notice of the proceedings of the planning commission or the board's hearings shall have~~
14 ~~standing to challenge the board's action unless such person was a party of record at the planning~~
15 ~~commission hearing.~~

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