Title 14

DEVELOPMENT CODE ADMINISTRATION

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Chapter 14.04

GENERAL PROVISIONS

Sections:

14.04.010 Intent.
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14.04.010 Intent. The purpose of this title is to combine and consolidate the application, review and approval processes for land development in the Town of Steilacoom in a manner that is clear, concise and understandable. It is further intended to comply with state guidelines for combining and expediting development review and integrating environmental review and land use development plans. The regulations, rules and standards found in this title are intended to apply to administrative and legislative matters and development proposals regulated by SMC Chapter 2.14 and Titles 15 through 18. (Ord. 1377 §1, 2004: Ord. 1234 §3(part), 1998).

14.04.020 Rules of interpretation.

(a) All words shall have their normal and customary meanings, unless specifically defined otherwise in this title.
(b) Words used in the present tense include the future.
(c) The plural includes the singular and vice-versa.
(d) The words “will” and “shall” are mandatory.
(e) The word “may” indicates that discretion is allowed.
(f) The word “used” includes designed, intended, or arranged to be used.
(g) The masculine gender includes the feminine and vice-versa.
(h) Distances shall be measured horizontally unless otherwise specified. (Ord. 1234 §3(part), 1998).

14.04.030 Definitions.

(a) “Application” means a written request for approval that includes the information specified in the applicable title of the Steilacoom Municipal Code.

(b) “Closed record appeal” means an appeal to the Town Council based on the existing record

(c) “Developer” means any person who proposes an action or seeks a permit regulated by SMC Chapter 2.14, and Titles 14 through 18.

(d) “Development” means any land use permit or action regulated by SMC Chapter 2.14, and Titles 14 through 18, including, but not limited to, subdivisions, rezones, conditional use permits or variances.

(e) “Decision, final” means the final action by the Town Council, Hearing Examiner or Town Administrator.

(f) “Hearing Examiner” interprets, reviews, and implements land development regulations as provided in SMC Titles 14 and 18.

(g) “Informational workshop” means a planning commission-hosted public meeting at which a staff report is provided and no public testimony is taken.

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

(i) “Public hearing” means an open record hearing at which evidence is presented and testimony is taken.

(j) “Town” means the Town of Steilacoom or any of its agents or employees.
(Ord. 1377 §2, 2004: Ord. 1234 §3(part),1998).

14.04.040 Time. In computing any period of time under this title, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next business day which is neither a Saturday, a Sunday nor a legal holiday. Legal holidays are prescribed in RCW 1.16.050. (Ord. 1377 §3, 2004)

Chapter 14.08

ADMINISTRATION

Sections:

14.08.010 Roles and responsibilities.
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14.08.030 Town Council.
14.08.040 Planning Commission.
14.08.050 Hearing Examiner.
14.08.060 Pierce County Superior Court.
14.08.070 Historic Preservation and Review Board.
14.08.080 Building Code Board of Appeals. (Reserved)

14.08.010 Roles and responsibilities.

(a) The regulation of land development is a cooperative activity including many different elected and appointed boards and town staff.

(b) A developer is expected to read and understand the Steilacoom Municipal Code and be prepared to fulfill the obligations placed on the developer by SMC Chapter 2.14 and Titles 14 through 18. (Ord. 1377 §4, 2004: Ord. 1234 §3(part),1998).

14.08.020 Town Administrator. The Town Administrator is responsible, among other duties, for the administration of SMC Chapter 2.14, and Titles 14 through 18. The Town Administrator shall review and act upon the following:

(1) Administrative Interpretation. Upon request or as deemed necessary, the Town Administrator shall interpret the meaning or application of the provisions of said titles and issue a written administrative interpretation within thirty (30) days. Requests for interpretation shall be written and shall concisely identify the issue and the applicant's desired interpretation. Administrative interpretations shall be filed with the Town Clerk.

(2) Administrative Approvals. Administrative approvals as set forth in SMC 14.20.010 and 14.20.020.

(3) SEPA threshold decisions under Chapter 16.04 SMC.

(4) Staff Reports**.** The Town Administrator shall prepare staff reports for development proposals subject to public hearings as set forth in SMC Chapter 14.08. (Ord. 1377 §5, 2004: Ord.1234 §3(part), 1998).

14.08.030 Town Council. The Town Council shall review and act on the following:

(1) Recommendations of the Planning Commission and Town Administrator on legislative matters pertaining to SMC Chapter 2.14, and Titles 14 through 18.

(2) Recommendations of the Town Administrator on development proposals.

(3) Recommendations of the Preservation and Review Board to enter into a special tax valuation agreement.

(4) Appeal of administrative interpretations.

(5) Appeal of administrative approvals set forth in SMC 14.20.010 and 14.20.020.

(6) Appeal of Preservation and Review Board decisions.

(7) Appeal of a state environmental policy act determination of significance under SMC Title 16. (Ord. 1377 §6, 2004: Ord.1234 §3(part), 1998).

14.08.040 Planning Commission.

(a) The Planning Commission shall review, hold public hearings and make recommendations to the Town Council on the following legislative matters:

(1) Amendments to the Comprehensive Plan.

(2) Amendments to the Building and Construction Code, SMC Title 15.

(3) Amendments to the Environment Code, SMC Title 16.

(4) Amendments to the Subdivision Code, SMC Title 17.

(5) Amendments to the Zoning Code, SMC Title 18, except quasi-judicial small area rezones.

(6) Other matters requested or remanded by the Town Council.

(b) The Planning Commission shall conduct informational workshops on the following applications:

(1) Rezones, except area-wide legislative rezones.

(2) Long plats, as defined by SMC Title 17.

(3) Conditional use permits, as defined by SMC Title 18.

(4) Other applications requested by the Town Council. (Ord.1234 §3(part),1998).

14.08.050 Hearing Examiner. The Hearing Examiner shall review and act on the following:

(1) Variances from the standards and dimensional regulations of the Zoning Code, SMC Title 18, including, but not limited to, height, width, size and setbacks.

(2) Variances from preliminary plat requirements of Plats and Subdivisions Code, SMC Title 17.

(3) Variances from critical area requirements of the Environment Code, SMC Title 16.

(4) Reasonable use exceptions of the Environment Code, SMC Chapter 16.16.

(5) Appeals of SEPA threshold determinations of non-significance, including mitigated determinations of non-significance.

(6) Appeals of administrative issuances of critical area permits.

(7) Other actions requested or remanded by the Town Council.

(Ord. 1377 §7, 2004: Ord. 1234 §3(part),1998).

14.08.060 Pierce County Superior Court. Pierce County superior court shall review and act on the following:

(1) Appeals of Town Council decisions

(2) Appeals of Hearing Examiner decisions. (Ord.1234 §3(part),1998).

14.08.070 Historic Preservation and Review Board.

(a) The Historic Preservation and Review Board shall review, hold public hearings and act on the following:

(1) Proposals to construct, demolish, or modify properties as required by SMC Chapter 2.14.

(2) Special tax valuation applications.

(3) Other matters requested by the Town Council.

(b) The Historic Preservation and Review Board shall review and make recommendations to Town Council on nominations to the register, removal of properties to the register; code amendments to SMC Chapter 2.14; investigate and report to Town Council on the use of various federal, state, local or private funding sources available to promote historic preservation; and upon Town Council request, review and comment on land use, housing and redevelopment, municipal improvement and other types of planning programs; and upon request, advise the Town Council generally on matters of Steilacoom history and historic preservation. (Ord. 1377 §8, 2004: Ord. 1234 §3(part),1998).

14.08.080 Building Code Board of Appeals. (Reserved) (Ord.1234 §3(part),1998).

Chapter 14.12

CONSOLIDATED APPLICATION PROCESS

Sections:

14.12.010 Application.
14.12.020 Preapplication meetings.
14.12.030 Contents of applications.
14.12.040 Letter of completeness, incompleteness or denial.
14.12.050 Technical Review Committee.
14.12.060 Environmental review.

14.12.010 Application.

(a) The Town shall consolidate development applications and the review of applications in order to integrate the development permit and environmental review process, while avoiding duplication of the review processes.

(b) All applications for development permits, design review approvals, variances and other Town approvals under SMC Chapter 2.14, and Titles 14 through 18 shall be submitted on forms provided by the Town.

(c) A development proposal that involves two or more applications shall be processed collectively.

(1) Applications shall be reviewed and acted upon collectively by the highest decision maker of any of the individual applications.

(2) The Town Council is the highest decision-maker, followed by the Hearing Examiner, and then the Town Administrator. (Ord. 1377 §9, 2004: Ord. 1234 §3(part), 1998).

14.12.020 Preapplication meetings.

(a) Informal. Applicants for development are encouraged to participate in an informal meeting prior to the formal preapplication meeting. The purpose of the meeting is to discuss, in general terms, the proposed development, town design standards, design alternatives, and required permits and approval process.

(b) Formal. Every applicant proposing a development that will subdivide land in the Town shall attend a preapplication meeting. The purpose of the meeting is to discuss the nature of the proposed development, application and permit requirements, fees, review process and schedule, applicable plans, policies and regulations. In order to expedite development review, the Town shall invite all affected jurisdictions, agencies and utility providers to the preapplication meeting. (Ord. 1234 §3(part),1998).

14.12.030 Contents of applications.

(a) All applications for approval under SMC Title 2 and Titles 14 through 18 shall include the information specified in the applicable title. The application shall designate a single contact person to receive communication and correspondence from the Town. The Town Administrator may require such additional information as is reasonably necessary to fully and properly evaluate the proposal.

(b) The applicant shall apply for all permits identified in the preapplication meeting.

(c) The applicant will provide addressed and stamped envelopes as part of the application if public notification by mail is required. (Ord. 1234 §3(part),1998).

14.12.040 Letter of completeness, incompleteness or denial.

(a) Within twenty-eight (28) days of receiving a date-stamped application, the Town shall review the application as set forth below and provide applicants with a written determination that the application is complete or incomplete. This written determination shall be either a letter of completeness or a letter of incompleteness.

(b) A project application shall be declared complete only when it contains all the following materials:

(1) A fully completed and signed development application and all applicable review fees.

(2) A fully completed and signed environmental checklist for projects subject to review under the State Environmental Policy Act.

(3) The information specified for the desired project in the appropriate chapters of the Steilacoom Municipal Code and as identified in SMC 14.12.030.

(4) Any supplemental information or special studies identified by the Town Administrator.

(c) For applications determined by the Town Administrator to be incomplete, the Town shall identify, in writing, the specific requirements or information necessary to constitute a complete application; this letter shall be called a letter of incompleteness. Upon submittal of the additional information, the Town shall, within fourteen (14) days, issue a letter of completeness or another letter of incompleteness.

(d) If the applicant does not provide the necessary information within sixty (60) days of the letter of incompleteness identified in SMC 14.12.040(c), the application shall be considered denied and a written notice of denial shall be sent to the applicant.

(e) Any request for review of a denied proposal as identified in SMC 14.12.040(d) shall be modified as necessary and resubmitted in entirety, including the required fee.

(f) Applications for review by the Historic Preservation and Review Board are governed by SMC 2.14.060. Applications may be filed at any time, however, in order to have the application reviewed for the current month's meeting complete applications must be received fifteen (15) days in advance of the scheduled Historic Preservation and Review Board meeting. For applications that do not require approval by the Historic Preservation and Review Board, staff shall have seven working days to review an application. (Ord. 1377 §10, 2004: Ord. 1234 §3(part), 1998).

14.12.050 Technical Review Committee.

(a) Immediately following the issuance of a letter of completeness, the Town shall schedule a meeting of the Technical Review Committee. The Technical Review Committee may be composed of representatives of all affected town departments, utility providers and any other entities or agencies with jurisdiction.

(b) The Technical Review Committee shall review the development application for compliance with Town plans and regulations, coordinate necessary permit reviews, and identify the development's environmental impacts. (Ord. 1234 §3(part),1998).

14.12.060 Environmental review.

(a) Developments and planned actions subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed in accordance with the policies and procedures contained in SMC Title 16.

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

(1) Projects categorically exempt from SEPA.

(2) Components of previously completed planned actions, to the extent permitted by law and consistent with an environmental impact statement for the planned action. (Ord. 1234 §3(part), 1998).

Chapter 14.16

PUBLIC NOTICE REQUIREMENTS

Sections:

14.16.010 Notice of development application.
14.16.020 Notice of administrative approvals.
14.16.025 Notice of SEPA threshold decisions.
14.16.030 Notice of development proposal public hearings.
14.16.031 Notice of public hearing before the Historic Preservation and Review Board.
14.16.033 Notice of hearings before the Hearing Examiner.
14.16.035 Notice of appeals to Town Council.
14.16.040 Notice of legislative public hearing.
14.16.050 Notice of informational workshops.
14.16.060 Notice of decision.

14.16.010 Notice of development application

(a) Within fourteen (14) days of issuing a letter of completeness under SMC 14.12.040, the Town shall issue a notice of development application. The notice shall include but not be limited to the following information:

(1) Name of the applicant;
(2) Date of application;
(3) Date of the notice of development application;
(4) Date of the letter of completeness;
(5) Location of the project;
(6) Project description, including a list of required studies and project permits;
(7) Requested approval or action;
(8) A public comment period not fewer than fourteen (14) nor more than thirty (30) days;
(9) Identification of existing environmental documents;
(10) Date, time and place of a public hearing if one has been scheduled;
(11) Staff contact and phone number;
(12) Statement that the decision on the application will be made within one hundred twenty (120) days of the date of the letter of completeness.

(b) The notice of development application shall be posted in three (3) public places where ordinances are posted and at least one (1) notice shall be visibly posted on the subject property.

(c) The notice of development application shall be issued prior to, and is not a substitute for, the required notice of a public hearing.

(d) A notice of application is not required for the following actions, when they are categorically exempt from SEPA or environmental review has been completed:

(1) Application for building permits,
(2) Application for lot line adjustments,
(3) Application for administrative approvals described by SMC 14.20.010.
(4) Applications for review by the historic preservation and review board.

(Ord. 1377 §11, 2004: Ord. 1234 §3(part), 1998).

14.16.020 Notice of administrative approvals. Notice of administrative approvals subject to notice under SMC 14.20.020 shall be made as follows:

(a) Notification of Preliminary Approval: The Town Administrator shall notify the adjacent property owners of intent to grant approval. Notification shall be made by mail and visibly posting on the subject property. The notice shall include:

(1) A description of the preliminary approval granted, including any conditions of approval; and
(2) A place where further information may be obtained; and
(3) Date of the notice; ands
(4) A statement that final approval will be granted unless an appeal requesting a public hearing is filed with the Town Clerk within ten (10) days of the date of the notice.

(Ord. 1377 §12, 2004: Ord. 1234 §3(part),1998).

14.16.025 Notice of SEPA threshold decisions. Notice of SEPA threshold decisions shall be made as set forth in SMC 16.04.310. (Ord. 1377 §13, 2004).

14.16.030 Notice of development proposal public hearings. Notice of a public hearing for development applications shall be given as follows:

(a) Time of Notices. Except as otherwise required, public notification of hearings shall be made by:

(1) Publication at least ten (10) days before the date of a public hearing in the official newspaper of the Town; and

(2) Mailing at least ten (10) days before the date of a public hearing to all property owners as shown on the records of the county assessor within five hundred (500) feet of the boundaries of the subject property. Addressed and stamped envelopes shall be provided by the applicant; and

(3) Posting at least ten (10) days before the hearing in three (3) public places where ordinances are posted and at least one (1) notice shall be visibly posted on the subject property.

(b) Content of Notice. The public notice shall include a general description of the proposed project, action to be taken, a non-legal description of the property or a vicinity map, the time, date and place of the public hearing and the place where further information may be obtained.

(c) Continuations. If for any reason a hearing cannot be completed on the date set in the public notice, the hearing may be continued to a date certain and no further notice under this section is required. (Ord. 1377 §14, 2004: Ord. 1234 §3(part), 1998).

14.16.031 Notice of public hearing before the Historic Preservation and Review Board.

Notice of a public hearing for review by the Historic Preservation and Review Board shall be as follows:

(a) Posting at least ten (10) days before the hearing in three (3) public places where ordinances are posted and at least one (1) notice shall be visibly posted on the subject property.

(b) Content of Notice. The public notice shall include a general description of the proposed project, action to be taken, a non-legal description of the property or a vicinity map, the time, date, and place of the public hearing and the place where further information may be obtained.

(c) Continuations. If for any reason, a hearing cannot be completed on the date set in the public notice, the hearing may be continued to a date certain and no further notice under this section is required. (Ord. 1377 §15, 2004).

14.16.033 Notice of hearings before the Hearing Examiner.

(a) Notices for hearings regarding variances and reasonable use exceptions shall be as provided in SMC 14.16.030 for public hearings.

(b) Notices for appeals of SEPA threshold determinations of non-significance and administrative issuances of critical area permits shall be as provided in SMC 14.16.035(a) for open record appeals

(c) Notices for other actions requested by the Town Council shall be determined by the Council, and calculated to give broad public notice. (Ord. 1377 §16, 2004).

14.16.035 Notice of appeals to Town Council.

(a) Notice of open record appeals shall be as required for public hearings in SMC 14.16.030, except that the addressed and stamped envelopes for mailed notice shall be supplied by the appellant.

(b) Notice of closed record appeals shall be as follows:

(1) Publication at least ten (10) days before the date of the appeal hearing in the official newspaper of the Town; and

(2) Mailing at least ten (10) days before the date of the appeal hearing to the appellant and all parties of record.

(3) Posting at least ten (10) days before the appeal in three (3) public places where ordinances are posted and at least one (1) notice shall be visibly posted on the subject property.

(c) Continuations. If for any reason an appeal hearing cannot be completed on the date set in the public notice, the hearing may be continued to a date certain and no further notice under this section is required. (Ord. 1377 §17, 2004).

14.16.040 Notice of legislative public hearing. Notice of a public hearing for legislative matters described in SMC 14.08 shall be given as follows:

(a) Time of Notices. Except as otherwise required, public notification of legislative hearings shall be made by:

(1) Publication at least ten (10) days before the date of a public hearing in the official newspaper of the Town; and

(2) Posting at least ten (10) days before the hearing in three (3) public places where ordinances are posted.

(b) Content of Notice. The public notice shall include a general description of the proposed matter, action to be taken, the time, date and place of the public hearing and the place where further information may be obtained.

(c) Continuations. If, for any reason,, a hearing cannot be completed on the date set in the public notice, the hearing may be continued to a date certain and no further notice under this section is required. (Ord.1234 §3(part), 1998).

14.16.050 Notice of informational workshops. Notice of a Planning Commission informational workshop described in SMC 14.08 shall be given as follows:

(a) Time of Notice. Public notification shall be made by :

(1) Mailing at least ten (10) days before the date of the informational workshop to all property owners as shown on the records of the County Assessor within five hundred (500) feet of the boundaries of the subject property. Addressed and stamped envelopes shall be provided by the applicant; and

(2) Posting at least ten (10) days before the workshop in three public places where ordinances are posted.

(b) Content of Notice. The public notice shall include a general description of the proposed matter, the time, date and place of the workshop and the place where further information may be obtained. The notice shall also contain a statement that no public testimony will be taken at the workshop.

(c) Continuations. If for any reason a workshop cannot be completed on the date set in the public notice, the workshop may be continued to a date certain and no further notice under this section is required. (Ord. 1234 §3(part), 1998).

14.16.060 Notice of decision. A written notice for all final decisions shall be sent to the applicant and all parties of record. (Ord. 1234 §3(part),1998).

Chapter 14.20

REVIEW AND APPROVAL PROCESS

Sections:

14.20.010 Administrative approvals without notice.
14.20.020 Administrative approvals subject to notice.
14.20.025 Historic Preservation and Review Board, hearings, informational

workshops and decisions.
14.20.030 Planning Commission review and informational workshops.
14.20.040 Town Council actions.
14.20.050 Hearing Examiner hearings and decisions.
14.20.060 Joint public hearings.
14.20.070 Procedures for public hearings and open record appeals.
14.20.080 Procedures for closed record appeals.
14.20.090 Reconsideration.
14.20.100 Remand.
14.20.110 Final decision.

14.20.010 Administrative approvals without notice.

(a) Decisions. The Town Administrator may approve, approve with conditions or deny the following without notice:

(1) Lot line adjustments.
(2) Extension of time for approval.
(3) Minor amendments or modifications to approved development or permits. Minor amendments include those which may affect the precise dimensions or location of buildings, accessory structures and driveways, but do not affect:
(i) overall project character; or
(ii) increase the number of lots, dwelling units, or density.
(4) Interpretations of codes and requirements of SMC Chapter 2.14, and SMC Titles 14 through 18.
(5) Class I home occupation licenses.
(6) Sign permits.
(7) Concurrency management letters and approvals.
(8) Minor development proposals as described by SMC Chapter 2.14.

(b) Final Decisions. Town Administrator decisions under this section shall be final on the date when issued and notice is mailed to the applicant.

Ord. 1377 §18(part), 2004: Ord. 1264 §3, 1999).

14.20.020 Administrative approvals subject to notice.

(a) Preliminary Approvals. The Town Administrator may grant preliminary approval or approval with conditions, or may deny the following actions subject to the notice and appeal requirements of this section:

(1) Short subdivisions.
(2) Accessory dwelling units.
(3) Class II home occupation licenses.
(4) Guest houses.
(5) Class I boarding houses.
(6) Reduction of setbacks per SMC Title 18.
(7) Micro telecommunication facilities under SMC 18.22.050 (B.1).
(8) Tower I and tower II structures.
(9) Minor modifications to existing wireless communication facilities.
(10) Increase in antenna dimensions.
(11) Critical area permits.

(b) Final Approvals. Preliminary approvals under this section shall become final subject to the following:

(1) If no appeal is submitted, the preliminary approval becomes final at the expiration of the ten (10) day notice period described by SMC 14.16.020.

(2) If a written notice of appeal is received within the specified time, the matter will be referred to the appropriate appellate body for an open record appeal hearing and final decision. (Ord. 1377 §18(part), 2004).

14.20.025 Historic Preservation and Review Board hearings, informational workshops, and decisions.

(a) Staff Report. The Town Administrator, or designee, shall prepare a staff report on the proposed matter summarizing the comments and recommendations of Town departments and affected agencies, and evaluating the development's consistency with the Town's codes and adopted plans. The staff report shall include findings, conclusions and a recommendation for disposition of the development application.

(b) Actions. Upon receiving a staff report, or notice of any other matter requiring the Historic Preservation and Review Board's attention per SMC Title 2, the Historic Preservation and Review Board shall perform the following actions as appropriate:

(1) Make a decision on a staff recommendation.

(2) Hold a public hearing and make a decision on the following matters:

(i) Proposals to construct, demolish, or modify properties as required by SMC Title 2.

(3) Hold a public hearing and make a recommendation to Town Council on the following matters:

(i) Nominations to the Steilacoom Register of Historic Places

(ii) Title 2 Code amendments

(iii) Special tax valuation agreements.

(c) Decisions. The Historic Preservation and Review Board shall make its decisions on development applications by resolution.

(1) The Historic Preservation and Review Board decision shall include one of the following actions

(i) Approve as recommended

(ii) Approve with conditions

(iii) Deny the application as submitted (reapplication or resubmittal is permitted). (Ord. 1338 §14, 2003: Ord. 1234 §3(part), 1998).

14.20.021 SEPA threshold decisions.

The Town Administrator, as the designated responsible official, shall issue SEPA threshold decisions in accordance with the provisions of Chapter 16.04 SMC, Chapter 43.21C RCW, and Chapter 197-11 WAC. (Ord. 1377 §19, 2004).

14.20.025 Historic Preservation and Review Board hearings, informational workshops, and decisions.

(a) Staff Report. The Town Administrator shall prepare a staff report on the proposed matter summarizing the comments and recommendations of town departments and affected agencies, and evaluating the development's consistency with the Town's codes and adopted plans. The staff report shall include findings, conclusions and a recommendation for disposition of the development application.

(b) Actions. Upon receiving a staff report or notice of any other matter requiring the Historic Preservation and Review Board's attention per SMC Chapter 2.14, the Historic Preservation and Review Board shall perform the following actions as appropriate:

(1) Make a decision on a staff recommendation.

(2) Hold a public hearing and make a decision on the following matters:

(i) Proposals to construct, demolish, or modify properties as required by SMC Chapter 2.14.

(3) Hold a public hearing and make a recommendation to Town Council on the following matters:

(i) Nominations to the Steilacoom Register of Historic Places

(ii) Amendments to SMC Chapter 2.14

(iii) Special tax valuation agreements

(c) Decisions. The Historic Preservation and Review Board shall make its decisions on development applications by resolution.

(1) The historic preservation and review board decision shall include one of the following actions

(i) Approve as recommended

(ii) Approve with conditions

(iii) Deny the application as submitted (reapplication or resubmittal is permitted). (Ord. 1377 §20, 2004).

14.20.030 Planning Commission review and informational workshops.

(a) Staff Report. The Town Administrator, or designee, shall prepare a staff report on the proposed matter summarizing the comments and recommendations of Town departments and affected agencies, and evaluating the development's consistency with the Town's codes and adopted plans. The staff report shall include findings, conclusions and a recommendation for disposition of the development application.

(b) Informational Workshop. The Planning Commission shall hold an informational workshop on development proposals for the purpose of informing the community of the nature of the proposal and providing staff with advice regarding the contents of the staff report. The informational workshop is not a public hearing and public testimony and comments shall not be taken at the workshop.

(c) Procedures for Informational Workshops. The chair shall open the informational workshop, and in general, observe the following sequence of events:

(1) Chair shall explain the procedures of the workshop and announce the date, place, and time for public testimony to be entered into the record.

(2) Staff shall make a presentation describing the proposal and summarizing the contents of the staff report described in SMC 14.20.030(a). Planning commission members may ask questions of the staff, and staff shall respond to member's questions.

(3) Planning Commission members discuss the adequacy of the report and provide the staff with suggested changes or additions.

(4) Chair shall close the workshop. (Ord. 1338 §15, 2003: Ord. 1234 §3(part), 1998).

14.20.040 Town council actions.

(a) Actions. Upon receiving a staff report or notice of any other matter requiring the council's attention per SMC Chapter 2.14 and Titles 14 through 18, the Council shall perform the following actions as appropriate:

(1) Make a decision on a staff recommendation.

(2) Hold a public hearing and make a decision on the following matters:

(i) Appeals of administrative interpretations.

(ii) Appeals of administrative approvals.

(iii) Appeals of determinations of significance.

(iv) Development proposals and legislative matters per SMC 14.08.030 .

(v) Other matters not prohibited by law.

(3) Conduct a closed record appeal and make a decision on appeal of Preservation and Review Board decisions.

(b) Decisions. The Town Council shall make its decision by motion, resolution or ordinance as appropriate.

(1) A Council decision shall include one of the following actions:

(i) Approve as recommended.

(ii) Approve with additional or modified conditions.

(iii) Modify, with or without the applicant's concurrence, provided that the modifications do not significantly:

(a) Enlarge the area or scope of the project.

(b) Increase the density or proposed building size.

(c) Increase adverse environmental impacts as determined by the SEPA responsible official.

(iv) Deny (reapplication or resubmittal is permitted).

(v) Deny with prejudice (reapplication or resubmittal is not allowed for one (1) year).

(vi) Remand for further proceedings and/or evidentiary hearing in accordance with SMC 14.20.090.

(2) A Council decision following a closed record appeal shall include one of the following actions:

(i) Grant the appeal in whole or in part.

(ii) Deny the appeal in whole or in part.

(iii) Remand for further proceedings and/or evidentiary hearing in accordance with SMC 14.20.090.

(iv) Modify the decision.

(Ord. 1377 §21, 2004: Ord.1234 §3(part), 1998).

14.20.050 Hearing Examiner hearings and decisions. Upon receiving a staff recommendation or notice of any other matter requiring the Hearing Examiner's attention, the Examiner shall perform the following actions as appropriate:

(a) Public Hearing. Conduct a public hearing on variances and reasonable use exceptions including taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the Town's codes and adopted plans.

(1) Required Findings. The Hearing Examiner shall not approve a proposed variance unless the findings found in SMC 18.28.030 can be made.

(b) SEPA appeal hearing. Conduct an open record appeal hearing on SEPA threshold determinations of non-significance, including taking testimony, hearing evidence, reviewing the record, and considering the facts germane to the decision.

(c) Decision. The Hearing Examiner shall make a written final decision that includes findings of fact and conclusions of law. (Ord. 1377 §22, 2004: Ord. 1234 §3(part), 1998).

14.20.060 Joint public hearings. The Town Administrator may combine any public hearing on a development proposal with any hearing that may be held by another government agency, on the proposed action, as long as:

(a) The hearing is held within the Town limits; and,

(b) The following requirements below are met:

(1) The other agency is not expressly prohibited by statute from doing so.

(2) Sufficient notice of the hearing is given to meet the Town's and the other agency's adopted notice requirements.

(3) The Town and the other agency have both received the necessary information about the development proposal in enough time in advance to hold the hearing at the same time. (Ord. 1234 §3(part), 1998).

14.20.070 Procedures for public hearings and open record appeals. Public hearings and open record appeals 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. The Mayor, Hearing Examiner or chair shall open the public hearing and, in general, observe the following sequence of events:

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

(2) Applicant presentation, including submittal of any additional materials. Members of the hearing body may ask questions of the applicant.

(3) Testimony or comments by the public germane to the matter. Questions directed to the staff or the applicant shall be posed by the Mayor, Hearing Examiner, or chair at their discretion.

(4) Rebuttal, response or clarifying statements by the staff and the applicant.

(5) The evidentiary portion of the public hearing shall be closed and the hearing body shall deliberate on the matter before it. (Ord. 1377 §23, 2004: Ord. 1234 §3(part), 1998).

14.20.080 Procedures for closed record appeals.

(a) Closed record appeals shall be conducted in accordance with the Town Council's rules of procedure and shall serve to provide argument and guidance for the council's decision. The Mayor shall open the appeal hearing and, in general, observe the following sequence of events:

(1) Staff presentation, including review of the administrative record. Members of the council may ask questions of the staff.

(2) Appellant presentation. members of the Council may ask questions of the appellant.

(3) Rebuttal, response or clarifying statements by the staff and the appellant.

(4) The presentation portion of the appeal hearing shall be closed and the council body shall deliberate on the matter before it.

(b) Except as provided in SMC 14.20.100, no new evidence or testimony shall be given or received. Written findings and conclusions shall be prepared and adopted setting forth the facts and the reasoning for the decision. The decision appealed may be affirmed, reversed, remanded or modified. (Ord. 1377 §24, 2004: Ord.1234 §3(part), 1998).

14.20.090 Reconsideration. A party of record to a public hearing or closed record appeal may seek reconsideration only of a final decision by filing a written request for reconsideration with the Town Clerk within five (5) days of the final decision. The request shall comply with SMC 14.24.030(b). The hearing body shall consider the request at its next regularly scheduled meeting, without public testimony 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 hearing body may immediately revise and reissue its decision or may call for argument in accordance with the procedures for closed record appeals per SMC 14.20.080. 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. (Ord.1234 §3(part),1998).

14.20.100 Remand. In the event the Town Council determines that the public hearing record or record on appeal is insufficient or otherwise flawed, the Council may remand the matter back to the hearing body to correct the deficiencies. The Council shall specify the items or issues to be considered and the time frame for completing the additional work. The Council may hold a public hearing on a closed record appeal only for the limited purposes identified in RCW 34.05.562(1). (Ord. 1234 §3(part),1998).

14.20.110 Final decision.

(a) Time. The final decision on a development proposal should be made within one hundred twenty (120) days from the date of the letter of completeness. Exceptions to this include:

(1) Development proposals which require an amendment to an adopted plan or code.

(2) Any time required to correct plans, perform studies or provide additional information, provided that within fourteen (14) days of receiving the requested additional information, the Town Administrator shall determine whether the information is adequate to resume the project review.

(3) Substantial project revisions made or requested by an applicant, in which case the one hundred twenty (120) days will be calculated from the time that the Administrator determines the revised application to be complete.

(4) All time required for the preparation and review of an environmental impact statement.

(5) Projects involving the siting of an essential public facility.

(6) An extension of time mutually agreed upon by the Town Administrator and the applicant; any such agreement shall be in writing.

(7) All time required to obtain a variance.

(8) Any remand to a hearing body.

(9) All time required for an appeal of a Determination of Significance.

(10) All time required to complete review by the historic preservation and review board.

(b) Effective Date. The final decision of the Council, Hearing Examiner, or hearing body shall be effective on the date stated in the decision, motion, resolution or ordinance, provided that the date from which appeal periods shall be calculated shall be the date the Council, Hearing Examiner, or hearing body takes action on the motion, resolution, or ordinance. (Ord. 1377 §25, 2004: Ord. 1234 §3(part), 1998).

Chapter 14.24

APPEALS

Sections:

14.24.010 Appeal of administrative interpretations and approvals.
14.24.020 Appeal of Preservation and Review Board decisions.
14.24.030 Appeal to the Town Council or Hearing Examiner.
14.24.040 Judicial appeal.

14.24.010 Appeal of administrative interpretations and approvals. Administrative interpretations and approvals, except SEPA determinations of non-significance and administratively issued critical area permits, may be appealed by applicants or interested parties to the Town Council. SEPA determinations of non-significance and administratively issued critical area permits may be appealed by applicants or interested parties to the Hearing Examiner. Such appeals shall be heard at an open record appeal hearing. The Town Council or Hearing Examiner shall decide the appeal based on the criteria or standards applicable to the decision being considered, and shall affirm the decision unless it is determined the decision being appealed was clearly erroneous.
Ord. 1377 §26, 2004: (Ord. 1234 §3(part), 1998).

14.24.020 Appeal of Preservation and Review Board decisions. Decisions of the Preservation and Review Board may be appealed by applicants or parties of record to the Town Council. Such appeals shall be heard at a closed record hearing and based upon the record which was established in the Preservation and Review Board hearing, and on the criteria or standards applicable to the decision being considered. The Council shall affirm the decision of the Board unless from a review of the record it is determined the decision being appealed was clearly erroneous. (Ord. 1234 §3(part), 1998).

14.24.030 Appeal to the Town Council or Hearing Examiner.

(a) Filing. Every appeal to the Town Council or Hearing Examiner shall be filed with the Town Clerk within ten (10) days after the date notice of the decision on the matter being appealed was posted.

(b) Contents. The appeal shall contain a concise statement identifying:

(1) The decision being appealed.

(2) The name and address of the appellant and their interest 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.

(5) If mailed public notice is required by SMC 14.16, addressed and stamped envelopes.

(6) The appeal fee.

(Ord. 1377 §17, 2004: Ord. 1234 §3(part),1998).

14.24.040 Judicial appeal.

(a) Appeals of the final decision of the Town Council, Hearing Examiner or hearing bodies involving SMC Chapter 2.14 and Titles 14 through 18, and for which all other appeals specifically authorized have been timely exhausted, shall be made to Pierce County superior court within twenty-one (21) days of the date the decision or action became final, unless another time period is established by state law or town code.

(b) Notice of appeal and any other pleadings required to be filed with the court shall be served on the Town Clerk.

(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 per SMC 2.50.040.

(Ord. 1377 §28, 2004: Ord 1234 §3(part), 1998).

Chapter 14.28

ENFORCEMENT

Sections:

14.28.010 Enforcing official and authority.
14.28.020 Right of entry.
14.28.030 Liability.
14.28.040 Fees and expenses.
14.28.050 Bonds.
14.28.060 Penalty.

14.28.010 Enforcing official and authority. The Town Administrator shall be responsible for enforcing SMC Chapter 2.14 and Titles 14 through 18, and may adopt

administrative rules to meet that responsibility. The Administrator may delegate enforcement responsibility to other staff members as appropriate.
(Ord. 1377 §29, 2004: Ord. 1234 §3(part),1998).

14.28.020 Right of entry. The enforcing official may enter, at reasonable times, any building, structure, or property to perform any duty imposed upon that official by this title. (Ord. 1234 §3(part),1998).

14.28.030 Liability. The enforcing official, acting in good faith and without malice, shall not be personally liable for damages that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of the official's duties. Any suit brought against the enforcing official because of such act or omission performed in the enforcement of this title shall be defended by the Town. (Ord. 1234 §3(part),1998).

14.28.040 Fees and expenses.

(a) All fees required under SMC Chapter 2.14 and Titles 14 through 18 are due and payable upon application for the action requested.

(b) The Town Council shall have the authority to set fees by resolution.

(c) Expenses incurred by the Town for necessary engineering, environmental, architectural or similar review and evaluation of applications and actions under SMC Titles 14 through 18 shall be billed to the applicant at cost plus five (5) percent. These expenses include:

(1) Review of development proposals and building permits
(2) Preparation and review of environmental impact statements
(3) Review of State Environmental Policy Act (SEPA) Checklists
(4) Review of critical area permits

(d) Expenses incurred by the Town in the administration of SMC Titles 14 through 18 are due upon billing and payable within ten (10) days of the billing date.
(Ord. 1377 §30, 2004L Ord. 1234 §3(part),1998).

14.28.050 Security.

(a) Site Improvement Security. Before the issuance of any permit or approval to build, use or occupy any building or site for which roads, utilities, landscaping or other improvements are required as a condition of the permit or approval, the applicant shall provide a performance bond or similar security to ensure the site improvements are completed before use or occupancy of the site. The bond or similar security shall be no less than one hundred ten (110) percent of the full estimated costs of all required improvements.

(b) Maintenance Security. Before the release of a site improvement security, the applicant shall provide a bond or similar security to ensure the maintenance of the site improvements. The maintenance security shall be fifteen (15) percent of the site improvement security and may be released two (2) years after the release of the site improvement security.

(c) Release of Site Improvement Security. The Town Administrator shall release a site improvement security when all work required under the security has been completed, inspected and approved by the Town, and a maintenance security has been provided. The Town Administrator may release portions of the site improvement security upon completion of phases of work or specific portions of the site improvements.

(d) Release of Maintenance Security. The Town Administrator shall release the maintenance security if all work required under the bond has been maintained in a manner satisfactory to the Town. The Town Administrator may release a portion of the

maintenance security if specific portions of the site improvements are satisfactory. At the end of the two years, the maintenance security may be used by the town to make necessary improvements to the work required under the bond. (Ord. 1377 §31, 2004: Ord. 1234 §3(part), 1998).

14.28.060 Penalty.

(a) Unless a different penalty is specifically prescribed, any person who violates or refuses to comply with any of the provisions of SMC Chapter 2.14 and Titles 14 through 18 shall be deemed guilty of a Class One or Class Two civil violation and upon conviction thereof, shall be punished according to the provisions of SMC 1.04.

(b) The use of property contrary to requirements of, or permits granted under SMC Chapter 2.14 and Titles 14 through 18 shall constitute a public nuisance for the correction of which criminal remedies may not be adequate. The Town reserves and may exercise its authority to abate public nuisances and may pursue any civil remedy at any law or equity, to eliminate any public nuisance and restore any property to its lawful use. The reservation of this authority is declared essential for the protection of public health, safety and welfare.

(c) The process and penalties for violations of Chapters 13.50, 13.51, 13.70, 15.04 and 16.16 SMC and Titles 17 and 18 are regulated by Chapter 14.32 SMC. (Ord. 1543 §15, 2016: Ord. 1377 §32, 2004: Ord. 1234 §3(part),1998).

Chapter 14.30

VESTING OF PERMITS

Sections:

14.30.010 Project Permit Definition.
14.30.020 Determination of complete applications.
14.30.030 Vesting of Development Rights.
14.30.040 SEPA conditions.

14.30.010 Project Permit Definition.

For the purpose of this Chapter, “project permit” and “project permit application” have the same meaning as in RCW 36.70B.020:

> Any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit development permits, site plan review, permits or approvals required by critical areas ordinances, site specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection. (Ord. 1524, 2014).

14.30.020 Determination of complete applications.

(a) Complete applications for project permits other than building permits are determined under the provisions of SMC 14.12.040.

(b) Complete applications for building permits are determined under the provisions of SMC 15.04.080. (Ord. 1524, 2014).

14.30.030 Vesting of Development Rights.

(a) A project permit shall vest upon submittal of a complete application for a project permit, including full payment of any fees.

(b) Supplemental information required after acceptance and vesting of a complete application shall not affect the validity of the vesting for such application.

(c) Vesting of an application does not vest any subsequently required project permits, nor does it affect the requirements for vesting of subsequent project permits or approvals.

(d) A project does not vest upon submittal of a pre-application request. (Ord. 1524, 2014).

14.30.040 SEPA conditions. Nothing herein shall restrict the Town's authority to impose conditions on project permits pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, WAC 197-11-600 and Chapter 16.04 SMC. (Ord. 1524, 2014).

Chapter 14.32

LAND USE CIVIL ENFORCEMENT

Sections:

14.32.010 Purpose.
14.32.020 Applicability.
14.32.030 Reporting of Possible Violations by the Public.
14.32.040 Enforcement Process.
14.32.050 Public Notification.
14.32.060 Permits.
14.32.070 Recovery of Costs.

14.32.010 Purpose.

(A) The purpose of this Chapter is to ensure that land use regulations as well as conditions imposed on land use permits granted by the Town, are administered, enforced, and upheld to protect the health, safety and welfare of the general public.

(B) The following Town regulations are subject to this Chapter, and are collectively referred to as the land use codes:

(1) Chapter 13.50 SMC, Stormwater Management regulations
(2) Chapter 13.51 SMC, Stormwater Maintenance regulations
(3) Chapter 13.70 SMC, Site Development Permits
(4) Chapter 15.04 SMC, Building Code regulations
(5) Chapter 16.16 SMC, Critical Areas regulations
(6) SMC Title 17, Plats and Subdivision Code, and
(7) SMC Title 18, Zoning Code

14.32.020 Applicability. A person who undertakes a development or use without first obtaining all required land use permits or other required official authorizations or conducts a use or development in a manner that is inconsistent with the provisions of this Chapter, or who fails to conform to the terms of an approved land use permit or other official land use determination or authorization of the Town Administrator, Hearing Examiner, Town Council or other authorized official, or who fails to comply with a stop work order issued under these regulations shall be considered in violation of this Chapter and be subject to enforcement actions by the Town of Steilacoom, as outlined herein.

(A) The Town Administrator, and/or his/her authorized representative, shall have the authority to enforce the Stormwater Management, Stormwater Maintenance, Site Development, Building, Critical Areas, Subdivision and Zoning regulations of the Town of Steilacoom. These codes shall be collectively referred to as the land use codes.

(B) The land use codes shall be enforced for the benefit of the health, safety and welfare of the general public.

(C) It is the intent of this Chapter to place the obligation of complying with its requirements upon the owner, occupier, or other person responsible for the condition of the land and buildings within the scope of this Chapter.

(D) No provision of, or term used in, this code is intended to impose upon the Town, or any of its officers or employees, any duty which would subject them to damages in a civil action.

(E) Any violation of the land use codes is a detriment to the health, safety, and welfare of the public, and is therefore declared to be a public nuisance.

14.32.030 Reporting of Possible Violations by the Public. The Town of Steilacoom shall maintain a process for the public to report possible violations of the land use codes. The process shall be communicated to the public. The process may include special phone numbers, website addresses or other means.

14.32.040 Enforcement Process.

(A) **Violation Review Criteria**. Each violation requires a review of all relevant facts in order to determine the appropriate enforcement response. When enforcing the provisions of this Chapter, the Town Administrator and/or his/her authorized representative should, as practical, seek to resolve violations without resorting to formal enforcement measures. When formal enforcement measures are necessary, the Town Administrator and/or his/her authorized representative should seek to resolve violations administratively prior to imposing civil penalties or seeking other remedies. The Town Administrator and/or his/her authorized representative should generally seek to gain compliance via civil penalties prior to pursuing abatement or criminal penalties. The Town Administrator shall consider a variety of factors when determining the appropriate enforcement response, including but not limited to:

(1) Severity, duration, and impact of the violation(s), including whether the violation has a probability of placing a person or persons in danger of death or bodily harm, causing significant environmental harm, or causing significant physical damage to the property of another;

(2) Compliance history, including any identical or similar violations or notice of violation at the same site or on a different site but caused by the same party;

(3) Economic benefit gained by the violation(s);

(4) Intent or negligence demonstrated by the person(s) responsible for the violation(s);

(5) Responsiveness in correcting the violation(s); and

(6) Other circumstances as justice may require, including any mitigating factors.

(B) **Investigation.**

(1) The Town Administrator and/or his/her authorized representative may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by the land use codes.

(2) At the end of the specified timeframe for voluntary compliance under section D, the Town Administrator or authorized representative will re-inspect the site to see if the condition has been corrected. If the condition has been corrected, the case will be closed. If the condition has not been corrected, Civil Penalties, Abatement, or Criminal Penalties may be imposed in the discretion of the Town Administrator or his/her designee, in accordance with Subsections F through K below.

(C) **Stop Work Order.**

(1) The Town Administrator and/or his/her authorized representative shall have the authority to issue a Stop Work Order whenever any use, activity, work or development is being done without a permit, review or authorization required by this Chapter or is being done contrary to any permit, required review, or authorization which may result in violation of this chapter. The Stop Work Order shall be posted on the site of the violation and contain the following information:

(a) The street address or a description of the building, structure, premises, or land where the violation has occurred, in terms reasonably sufficient to identify its location;

(b) A description of the potential violation and a reference to the provisions of the Steilacoom Municipal Code which may have been violated;

(c) A description of the action required to remedy the potential violation, which may include corrections, repairs, demolition, removal, restoration, or any other appropriate action as determined by the Town Administrator and/or his/her authorized representative;

(d) The appropriate department and/or division investigating the case and the contact person.

(2) With the exception of emergency work determined by the Town Administrator and/or his/her authorized representative to be necessary to prevent immediate threats to the public health, safety and welfare or stabilize a site or prevent further property or environmental damage, it is unlawful for any work to be done after the posting or service of a Stop-Work Order until authorization to proceed is provided by the Town Administrator and/or his/her authorized representative

(D) **Voluntary Compliance**. The Town Administrator and/or his/her authorized representative may pursue a reasonable attempt to secure voluntary compliance by contacting the owner or other person responsible for any violation of this Chapter, explaining the violation and requesting compliance. This contact may be in person or in writing or both.
Voluntary compliance is expected to be completed as soon as feasible, but not later than fifteen (15) calendar days following contact by the Town. Additional time may be granted by the Town Administrator upon the owner or responsible person demonstrating both the necessity for the extra time and good faith efforts to comply.

(E) **Notice of Violation.**

(1) The Town Administrator and/or his/her authorized representative, if he or she has a reasonable belief that a violation of the land use codes exists and the voluntary compliance measures in Subsection D have already been sought and have been unsuccessful, or are determined to not be appropriate, may issue a Notice of Violation to the owner of the property where the violation has occurred, the person in control of the property, if different, or the person committing the violation, if different, containing the following:

(a) The street address or a description of the building, structure, premises, or land where the violation has occurred, in terms reasonably sufficient to identify its location;

(b) A description of the violation and a reference to the provisions of the Steilacoom Municipal Code which have been violated;

(c) A description of the action required to remedy the violation, which may include corrections, repairs, demolition, removal, restoration, submittal of a work plan or any other appropriate action as determined by the Town Administrator and/or his/her authorized representative;

(d) A statement that the required action must be taken or work plan submitted within ten (10) calendar days of receipt of the Notice of Violation, after which the Town may impose monetary civil penalties and/or abate the violation in accordance with the provisions of this chapter;

(e) The appropriate department and/or division investigating the case and the contact person.

(f) A statement that the person to whom a Notice of Violation is directed may appeal the Notice of Violation to the Town Council, including the deadline for filing such an appeal.

(g) A statement that if the person to whom the Notice of Violation is issued fails to submit a Notice of Appeal within 10 calendar days of issuance or fails to voluntarily abate the violation within ten (10) calendar days of issuance, the Town may assess monetary penalties, as outlined in the Civil Penalties section below, against the owner of the property, and/or the person in control of the property, if different, and/or the person committing the violation, if different and readily identifiable.

(2) The Notice of Violation shall be served by any one or any combination of the following methods:

(a) By certified first-class mail to the last known address of the owner of the property and to the person in control of the property, if different, and/or to the person committing the violation, if different and readily identifiable; or

(b) By posting the Notice of Violation in a prominent location on the premises in a conspicuous manner which is reasonably likely to be discovered; or

(c) By personal service upon the owner of the property and/or the person in control of the property, if different, and/or the person committing the violation, if different and readily identifiable.

(F) **Civil Penalty.**

(1) Any person who fails to remedy a violation or take the corrective action described by the Town Administrator and/or his/her authorized representative in a Notice of Violation within the time period specified in the Notice of Violation may be subject to monetary civil penalties. The Civil Penalty will be either:

(a) Prepared and sent by first-class mail to the owner of the property and/or the person in control of the property, if different, and/or the person committing the violation, if different and readily identifiable; or

(b) Personally served upon the owner of the property, and/or the person in control of the property, if different, and/or the person committing the violation, if different and readily identifiable; or

(c) Posted on the property or premises in a prominent location and in a conspicuous manner which is reasonably likely to be discovered.

(2) The Civil Penalty shall contain the following:

(a) A statement indicating that the action outlined by the Town in the Notice of Violation must be taken, or further civil penalties may be imposed to the discretion of the Town Administrator or his/her designee;

(b) The address of the site and specific details of the violation which is to be corrected;

(c) The appropriate department and/or division investigating the case and the contact person:

(d) A statement that the person to whom the Civil Penalty is directed may appeal the Civil Penalty to the Town Council, including the deadline for filing such an appeal. Such Notice of Appeal must be in writing and must be received by the Town Clerk's Office, no later than ten (10) calendar days after the Civil Penalty has been issued.

(e) A statement that if the person to whom the Civil Penalty is issued fails to submit a Notice of Appeal within ten (10) calendar days of issuance or fails to voluntarily abate the violation indicated in the Notice of Violation, the Town may remedy the violation through abatement, as outlined below, and bill such costs against the person in control of the property, if different, and/or the person committing the violation, if different and readily identifiable.

(f) An explanation as to how the fine was determined, based on the criteria listed in Subsection A and the minimum amounts listed in Subsection F 4.

(3) The site will be re-inspected to see if the condition has been corrected. If the condition has been corrected, the case will be closed. If the condition has not been corrected, a subsequent civil penalty may be sent or delivered in accordance with Subsection F 1 above.

(4) The amount of the civil penalty shall be determined by the Town Administrator using the criteria listed in Subsection A. For each violation, the minimum fine shall be at least $500 per day for first time violators and $1000 per day for each subsequent violation. Each day of continued violation or repeated violation shall constitute a separate violation. The Town Administrator shall provide a written explanation to the Town Council for the determination of the fine based on the Subsection A criteria.

(5) Each day that a property or person is not in compliance with the provisions of this Chapter constitutes a separate violation of this Chapter and is subject to a separate civil penalty.

(6) Civil penalties will continue to accumulate until the violation is corrected.

(7) At such time that the assessed civil penalties associated with a violation exceeds $1,000, a Certificate of Complaint may be filed with the Pierce County Auditor to be attached to the title of the property. A copy of the Certificate of Complaint shall be sent to the property owner and any other identified parties of interest, if different from the property owner.

(8) Any person to whom a civil penalty is issued may appeal the civil penalty, as outlined in Subsection H below.

(9) In addition to civil fines, any person or entity which has been previously fined shall be referred to the Town Attorney for possible criminal prosecution.

(G) **Abatement.**

(1) In the event that compliance is not achieved through the measures outlined in Subsections A through F, above, or that said measures are not an appropriate means to remedy a violation, in the discretion of the Town Administrator or his/her designee, the Town may, in addition to collecting monetary civil penalties, remove or correct the violation through abatement.

(2) Using any lawful means, the Town may enter unsecured property and may remove or correct a violation which is subject to abatement. If the person in control of the premises does not consent to entry, the Town may seek such judicial process in Pierce County Superior Court as it deems necessary to effect the removal or correction of such condition.

(3) Abatement undertaken on properties regulated under Chapter 2.14 SMC shall be reviewed and approved by the Steilacoom Preservation and Review Board, in accordance with the provisions contained in SMC 2.14.060, prior to abatement.

(4) Recovery of Costs

(a) An invoice for abatement costs shall be mailed to the owner of the property over which a Notice of Violation has been directed and/or the party identified in the Notice of Violation, and shall become due and payable to the Town of Steilacoom within 30 calendar days from the date of said invoice. Provisions for appealing an invoice for abatement costs shall be included on said invoice, as specified in Subsection I.

(b) Any debt shall be collectible in the same manner as any other civil debt owed to the Town, and the Town may pursue collection of the costs of any abatement proceedings under this Chapter by any other lawful means, including, but not limited to, referral to a collection agency.

(H) **Appeals of a Notice of Violation or Civil Penalty**

(1) A person to whom a Notice of Violation or Civil Penalty is issued may appeal the Town's notice or order by filing a written request with the Town Clerk no later than ten (10) calendar days after said Notice of Violation or Civil Penalty is issued. Each request for appeal shall contain the address and telephone number of the person requesting the hearing and the

name and address of any person who may represent him or her. Each request for appeal shall set out the basis for the appeal.

(2) When a written appeal is submitted, the Town Council will conduct a hearing, as required by this Chapter, no more than 30 calendar days after the Town Clerk issues a Notice of Hearing.

(3) When a written appeal is submitted, the Town Clerk or his or her designee shall mail a Hearing Notice giving the time, location, and date of the hearing, by first-class mail to person or persons to whom the Notice of Violation or Civil Penalty was directed and any other parties identified in the written appeal request.

(4) The Town Council shall conduct a hearing on the violation. The Town Administrator and/or his/her authorized representative, as well as the person to whom the Notice of Violation or Civil Penalty was directed, may participate as parties in the hearing and each party may call witnesses. The Town shall have the burden of proof to establish, by a preponderance of the evidence, that a violation has occurred and that the required corrective action is reasonable, or that the Civil Penalty was appropriately assessed for noncompliance with this Chapter.

(5) The Town Council shall determine whether the Town has established, by a preponderance of the evidence, that a violation has occurred and that the required corrective action is reasonable, or that the Civil Penalty was appropriate and reasonable, and, based on that determination, shall issue a Final Order that affirms, modifies, or vacates the Town Administrator's decisions regarding the alleged violation, the required corrective action, and/or Civil Penalty. The Town Council's Final Order shall contain the following information:

(a) The decision regarding the alleged violation including findings of facts and conclusion based thereon;

(b) The required corrective action, if any;

(c) The date and time by which the correction must be completed;

(d) Any additional conditions imposed by the Town Council regarding the violation and any corrective action;

(e) The date and time after which the Town may proceed with abatement, as outlined in Subsection G, if the required corrective action is not completed;

(f) A statement that any associated civil penalties are affirmed, modified, or waived;

(g) A statement of any appeal remedies;

(h) A notice that if the Town proceeds with abatement, the costs of said abatement may be assessed against the property owner, person in control of the property, or person committing the violation, if the costs of abatement are not paid in accordance with the provisions of this Chapter.

(6) If the person to whom the Notice of Violation or Civil Penalty was directed fails to appear at the scheduled hearing, the Town Council will enter a Final Order finding that the violation has occurred, or the Civil Penalty Order was appropriate and reasonable, and that abatement may proceed.

(7) The Final Order shall be served on the person by one of the methods stated in Subsection E 2 of this Section.

(8) A Final Order of the Town Council shall be considered the final administrative decision and may be appealed to a court of competent jurisdiction within 21 calendar days of its issuance.

(9) For computing any time period specified for appeals in this Chapter, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a legal holiday. Legal holidays are prescribed in RCW 1.16.050.

(I) **Appeals of Abatement Invoice.**

(1) Any person sent an invoice regarding the costs due for the abatement of a violation may appeal the invoice and request a hearing to determine if the costs should be assessed, reduced, or waived.

(2) A request for appeal shall be made in writing and filed with the Town Clerk no later than ten (10) calendar days from the date of the invoice specifying the costs due for the abatement.

(3) Each request for hearing shall contain the address and telephone number of the person requesting the hearing and the name and/ address of any person who will be present to represent him or her.

(4) Each request for hearing shall set out the basis for the appeal.

(5) Failure to appeal an abatement invoice within ten (10) calendar days from the date of the invoice shall be a waiver of the right to contest the validity of the costs incurred in abatement of the violation. The costs will be deemed to be valid and the Town may pursue collection of the costs by any lawful means, including, but not limited to, referral to a collection agency.

(6) The hearing:

(a) Shall be scheduled no more than 30 calendar days after the Town Clerk or his or her designee issues the Notice of Hearing. The Town Clerk or his/her designee shall mail a notice giving the time, location, and date of the hearing by first class mail to person or persons to whom the notice of the costs due for the abatement was directed.

(b) The Town Administrator and the person requesting the hearing may be represented by counsel, examine witnesses, and present evidence.

(c) The Town Council may uphold the amount billed for the cost of abatement, reduce the amount billed, or waive the costs. Costs shall be collected by any lawful means, including, but not limited to, referral to a collection agency.

(7) The determination of the Town Council is the final administrative decision and may be appealed to a court of competent jurisdiction within 21 calendar days of its issuance.

(J) **Emergency Abatement.** In certain instances, such as an unanticipated and imminent threat to the health, safety, or general welfare of the public or the environment which requires immediate action within a time too short to allow full compliance with the standard procedures outlined in this chapter, the Town may seek emergency abatement in order to gain compliance with this Chapter, in the discretion of the Town Administrator or his/her designee. Using any lawful means, the Town may enter unsecured property and may remove or correct a violation which is subject to abatement. If the person in control of the premises does not consent to entry, the Town may seek such judicial process in Pierce County Superior Court as it deems necessary to effect the removal or correction of such condition.

(K) **Criminal Penalty.** In certain instances, where the aforementioned enforcement and penalty provisions outlined in this Chapter do not result in compliance or are not an appropriate means for achieving compliance, the Town Administrator and/or his/her authorized representative may refer the matter to the Town Attorney for criminal prosecution. Upon conviction, the owner of the property upon which the violation has occurred, and/or the person in control of the property where the violation has occurred, if different, and/or the person committing the violation, if different, may be subject to a fine of up to $1,000, or imprisonment for not more than 90 days in jail, or by both such fine and imprisonment. Upon conviction and pursuant to a prosecution motion, the court shall also order immediate action by the property owner or person in control of the property to correct the condition constituting the violation and to maintain the corrected condition in compliance with this Chapter. The mandatory minimum fines shall include statutory costs and assessments.

(L) **Additional Relief.** Nothing in this chapter shall preclude the Town from seeking any other relief, as authorized in other provisions of the Steilacoom Municipal Code. Enforcement of this Chapter is supplemental to all other laws adopted by the Town.

(M) **Revocation of Permits.** Any person, firm, corporation, or other legal entity found to have violated the terms and conditions of a discretionary land use permit within the purview of the Town Administrator, Hearing Examiner, Town Council, or other authorized official, pursuant to this Chapter, shall be subject to revocation of that permit upon failure to correct the violation. Permits found to have been authorized based on a misrepresentation of the facts that the permit authorization was based upon shall also be subject to revocation. Should a discretionary land use permit be revoked, the use rights attached to the site and/or structure in question shall revert to uses permitted outright in the underlying zoning district, subject to all development standards contained therein. Revocation of a permit does not preclude the assessment of penalties outlined above. Appeals of the revocation order shall be in accordance with Subsection H.

14.32.050 Public Notification. The Town Administrator shall compile a written monthly report to the Town Council of each stop work order, notice of violation, civil penalty imposed, liens, matters sent to collection, and the disposition of each such item.

14.32.060 Permits.

(A) Work begun without a required permit. If the violation is based upon failure to obtain a permit, the owner of the property shall be required to apply for and obtain all required permits. The Town shall impose such conditions on the permit as are necessary to bring the property into compliance with all Town standards.

(B) Violations of existing permits. If the violation is based upon violations of an issued permit, the Town shall impose such conditions on the permit as are necessary to bring the property into compliance with all Town standards.

(C) Other situations. If work requiring a permit is necessary to rectify or restore the property, the owner of the property shall be required to apply for and obtain all required permits. The Town shall impose such conditions on the permit as are necessary to bring the property into compliance with all Town standards.

14.32.070 Recovery of Costs.

(1) Payment of Monetary Penalties and Costs. Any monetary penalties or costs assessed pursuant to this chapter constitute a personal obligation of the person responsible for the violation. In addition, the monetary penalties or costs assessed pursuant to this chapter may be assessed against the property that is the subject of the enforcement action. The Town attorney is authorized to collect the monetary penalty or costs by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate the accrual of additional per diem monetary penalties so long as the violation continues. The Town may incorporate any outstanding penalty or cost into an assessment lien, if the Town incurs costs of abating the violation. Any monetary penalty assessed must be paid in full to the Town within 30 calendar days from the date of service of an uncontested notice of civil violation or any order assessing monetary penalties.

(2) Recovery of Costs. The Town shall bill its costs, including incidental expenses, of pursuing code compliance and/or of abating a violation to the person responsible for the violation and/or against the subject property. Such costs shall become due and payable 30 calendar days after the date of the bill. The term “incidental expenses” shall include, but not be limited to, personnel costs, both direct and indirect, including attorneys’ fees incurred by the Town; costs incurred in documenting the violation; the actual expenses and costs to the Town in the preparation of notices, specifications and contracts, and in inspecting the work; hauling, storage and disposal expenses; the cost of any required printing and mailing; and interest. The Town Administrator or designee, may in his or her discretion waive in whole or part the assessment of any costs upon a showing that abatement has occurred or is no longer

necessary or that the costs would cause a significant financial hardship for the responsible party.

(3) Use of Collection Agency. Pursuant to Chapter 19.16 RCW, as currently enacted or hereafter amended, the Town may, at its discretion, use a collection agency for the purposes of collecting penalties and costs assessed pursuant to this chapter. The collection agency may add fees or interest charges to the original amount assigned to collections as allowed by law. No debt may be assigned to a collection agency until at least 30 calendar days have elapsed from the time that the Town attempts to notify the person responsible for the debt of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid. Notice of potential assignment to collections shall be made by regular first class mail to the last known address of the person responsible for the violation; provided, that inability to ascertain a current mailing address shall not prohibit the debt from being assigned to collections.

(4) Assessment Lien. If penalties or costs assessed against a property are not paid within 30 calendar days, the Town clerk shall certify to the county treasurer the confirmed amount for assessment on the tax rolls. The county treasurer shall enter the 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 as provided 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 Town. The lien shall be of equal rank with the state, county and municipal taxes. The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 15 calendar days after the assessment is placed upon the assessment roll. The Town attorney may also file a lien for such costs against the real property.

(5) Continuing Duty to Abate Violations. Payment of a monetary penalty or costs pursuant to this chapter does not relieve the person responsible for the violation of the duty to correct or abate the violation. Additional notices of violation may be issued and/or criminal charges filed for continuing failure to correct or abate a violation.

(Ord. 1543 §1, 2016).