CHAPTER 17.06

ADMINISTRATION

Sections:

17.06.010 - Purpose and Intent
17.06.020 - General Provisions
17.06.030 - Development Review Process
17.06.050 - Public Notices
17.06.060 - Appeals
17.06.070 - Enforcement

Section 17.06.010 - Purpose and Intent

This chapter describes the process for review of land use development proposals and ordinance or map amendments subject to review under this title. The intent is to establish procedures for the review of permit applications that will ensure that the requirements of this title are met, and the goals and policies of the Kettle Falls Comprehensive Plan are achieved. The process integrates the State Environmental Policy Act (SEPA) review as well as provides for consolidated development review wherever possible, in order to avoid duplication and delay.

Section 17.06.020 - General Provisions

A. Unless otherwise required, where the City must review more than one (1) application for a given development, all applications required for the development may be submitted for review at one time. Where more than one application is submitted for a given development, and those applications are subject to different levels of review, then all the applications are subject to the highest level of review that applies.

B. If this code does not expressly provide for review using one of the types of procedures, and another specific procedure is not required by law, the Administrator shall classify the application as one of the three types of procedures. The Administrator shall consider the following guidelines when classifying the procedure type:

1. Type I process (Administrative) involves an application that is subject to clear, objective and nondiscretionary standard or standards that require the exercise of professional judgment about technical issues.

2. Type II process (Quasi-Judicial) involves an application that is subject to objective and subjective standards that require the exercise of substantial discretion and about which there may be a broad public interest.

3. Type III process (Legislative) process involves the creation, implementation or amendment of policy or law by ordinance. The subject of a Type III process applies to a relatively large geographic area.

C. If an appeal is received an a SEPA determination, the appeal and the subject application shall be considered by the City Council at the same hearing.

Section 17.06.030 - Development Review Process

17.06.031 - General Provisions

A. Applications for development or permits shall be subject to Type I, Type II, or Type III review process. The following are the roles and responsibilities for each type of process:

1. The Administrator (or the Mayor's designee) may approve, approve with conditions, or deny Type I (Administrative) applications. (Ord. 1557, 1998; Ord. 1678, 2008)

2. The Planning Commission may approve, approve with conditions, or deny Type II (Quasi-judicial) applications. (Ord. 1678, 2008)

3. The City Council may approve, approve with conditions, or deny Type III (Legislative) applications after review and recommendation by the Planning Commission. In addition, the City Council shall review and act on appeals of Type I and Type II decisions, where allowed. Type III decisions may be appealed through Stevens County Superior Court. (Ord. 1678, 2008)

17.06.032 - Pre-Application

Applicants for all development permits are encouraged to contact the Planning Department prior to submitting an application to discuss the nature of the proposed development, applicable development standards, design alternatives, required permit and the review process. The Planning Department will arrange to have representatives of other agencies and departments with review authority attend the pre-application conference.

17.06.033 - Application and Fee

Any person, firm, or corporation may make application. A completed application with applicable submittal materials and fees as established by Resolution of the City Council shall be submitted to the Planning Department.

17.06.034 - Review for Completeness

A. Within 14 days of receiving a date-stamped application, the City Planning Department shall review the application for completeness, and provide the applicant with written determination that the application is complete or incomplete. If the application is found to be incomplete, the City Planning Department shall identify the specific information or requirements that must be provided to constitute a complete application. (Ord. 1678, 2008)

B. An application is complete if it includes the following:

1. A completed original application form signed by the owner(s) of the property subject to the application or by a representative authorized to do so by written authorization executed by the owner(s) and filed with the application. (Ord. 1678, 2008)

2. Information necessary to demonstrate compliance with the standards specified in the applicable section(s) of this title.

3. A completed SEPA checklist, including all back-up materials, or, in the case that the project is exempt, a statement explaining why the project should be considered exempt under WAC 197-11-800.

4. Suggested findings of fact supporting the proposed project and relating to each required finding in this title.

5. Payment in full of all applicable fee(s) adopted by the City Council.

17.06.035 - Technical Review

The Administrator shall review the development application for compliance with the provisions of this title and the Kettle Falls Comprehensive Plan, and other applicable City regulations, and the State Environmental Policy Act (SEPA). The Administrator may seek the input and advice of other City departments and other state and federal agencies in performing this review. The Administrator shall make a threshold determination pursuant to SEPA. In addition, the Administrator may require such additional information as reasonably necessary to fully and properly evaluate the proposal. (Ord. 1678, 2008)

17.06.036 - Notice of Application

Within 14 days after making a determination that an application is technically complete, the Administrator shall publish a Notice of Application for all Type II and Type III projects and those Type I projects that are determined to require review under SEPA, in accordance with the requirements of Section 17.06.050.

17.06.037 - Type I, Administrative Review Process

A. The Administrator may approve, approve with conditions, or deny Type I applications, subject to the notice and appeal requirements of this section. (Ord. 1557, 1998; Ord. 1678, 2008)

B. Within 14 days, a Notice of Decision must be published in accordance with Section 17.06.054. Preliminary approvals under this section shall become final if no appeal is submitted, within 14 days of publication of the Notice of Decision.

17.06.038 - Type II, Quasi-Judicial Review Process

A. A Type II, Quasi-Judicial Review shall require an open record public hearing before the Planning Commission. (Ord. 1678, 2008)

B. The Administrator shall prepare a staff report on the proposed development or action summarizing the comments and recommendations of City departments, affected agencies and special districts, and evaluating the development's consistency with the requirements of this Title, the Kettle Falls Comprehensive Plan, and other applicable City regulations. The recommendation shall include findings, conclusions and proposed recommendations for the disposition of the development application. (Ord. 1678, 2008)

C. The Administrator shall schedule a public hearing before the Planning Commission as soon as possible after a determination is made that a completed application requires a Type II Review. If possible, the date, time and location of the public hearing shall be included in the Notice of Application. If the public hearing date is not established at the time of Notice of Application, a separate notice, in accordance with Section 17.06.050, shall be provided. (Ord. 1678, 2008)

D. At the time and in the place appointed, the Planning Commission shall conduct a public hearing for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the requirements of this title and other applicable plans and regulations. (Ord. 1678, 2008)

E. The Planning Commission may grant preliminary approval, approval with conditions, or may deny the project based on the testimony received and the findings made. Preliminary approvals under this section shall become final ten (10) days after publication of the Notice of Decision, unless an appeal is filed with the City Council. (Ord. 1678, 2008)

17.06.039 - Type III, Legislative Review Process

A. A Type III, Legislative, review shall require a review before the Planning Commission, a commission recommendation to the City Council, and a hearing before the City Council. (Ord. 1678, 2008)

B. The Administrator shall prepare a report and recommendation on the proposed amendment or action summarizing the comments and recommendations of City departments, affected agencies and special districts, and evaluating the amendment's consistency with the requirements of this title, the Kettle Falls Comprehensive Plan, other applicable City regulations, and applicable state and federal laws and regulations. The staff report shall include findings, conclusions and proposed recommendations for the disposition of the development application. (Ord. 1678, 2008)

C. The Administrator shall schedule a public hearing before the Planning Commission as soon as possible after a determination is made that a completed application requires Legislative Review. Notice of the time and place of the hearing shall be published in the Notice of Application, in accordance with Section 17.06.052. A separate notice of public hearing shall be provided if the hearing date is not known at the time of the Notice of Application. (Ord. 1678, 2008)

D. At the time and in the place appointed, the Planning Commission shall conduct an open record public hearing for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the requirements of this Title and other applicable laws, plans and regulations. (Ord. 1678, 2008)

E. Whenever a proposed amendment to the Unified Development Ordinance or other ordinance implementing the Comprehensive Plan, or an amendment to the Comprehensive Plan is considered by the Planning Commission, the Commission shall prepare findings of fact supporting its action and transmit such findings to the City Council with its recommendation for action.

F. A recommendation of approval, or approval with conditions to the Council shall be by the affirmative vote of not less than a majority of the total members of the Commission. The approval shall be by a recorded vote which shall incorporate the findings of fact and reasoning, and shall refer specifically to what is being amended. (Ord. 1678, 2008)

G. Upon receipt of a recommendation by the Planning Commission of an ordinance, amendment to an existing ordinance, or an amendment to the Comprehensive Plan, the Council shall conduct a closed record public hearing. The Council's decision shall be based on the record established at the hearing and the facts described in the Planning Commission recommendation. (Ord. 1678, 2008)

1. Whenever the Council makes a determination to modify or reject the Planning Commission findings of fact or recommendations, it shall adopt its own findings of fact and statement setting forth the factors considered and its own analysis of findings considered by it to be controlling.

2. In the event of initiation of an amendment by the Council, it shall refer to proposed amendment to the Planning Commission for consideration and recommendation prior to taking action. Only one (1) closed record public hearing (before the City Council) shall be held prior to Council action. (Ord. 1678, 2008)

3. The Council, before adoption, modification, or rejection of an amendment to this title, a zone change or a Plan amendment, shall make findings of fact representing the official determination of the Council and specify the basis for the decision.

H. Action by the City Council regarding the initial adoption of any official land use controls or ordinances, any subsequent amendment to official controls or any subsequent amendment to the Comprehensive Plan, shall be final and conclusive, unless within 21 days from the date of publication of the Notice of Decision, the original applicant or a party adversely affected by the decision makes proper application to a court of competent jurisdiction for a writ of certiorari, a writ of prohibition, or a writ of mandamus, or other action as may be provided and allowed by law to review the action of the City Council.

17.06.040 - Final Decision

A. The review authority shall approve or deny a development proposal within the following timeframes from the date of the letter of completeness:

1. 120 days for Development Applications, such as Conditional Use Permit, Variance, Site Plan Review

2. 90 days for Preliminary Subdivision Plats

3. 30 days for Short Plats

4. For Development Applications not identified in this Section or Section 17.06.040B, the 120 day timeframe shall apply.

B. Exceptions to this include:

1. Amendments to the Comprehensive Plan or Development Code.

2. Any time required to correct plans, perform studies or provide additional information, provided that within 14 days of receiving the requested additional information, the 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 120 days will be calculated from the time that the City determines the revised application to be complete.

4. All time required for the preparation and review of an environmental impact statement, if required under SEPA.

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

6. An extension of time mutually agreed upon by the City and the applicant.

7. All time required to obtain a variance.

8. Any remand to the hearing body.

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

17.06.041 - Notice of Decision

A. After a decision is made by the review authority, the Administrator shall prepare a Notice of Decision that contains the following:

1. A description of the project or requested action and the location of the property.

2. A statement of any SEPA threshold determination.

3. A statement of the action taken by the review authority.

4. A statement that the action is final unless an appeal is submitted within the appeal period set by this title. The final appeal date shall be provided.

5. A statement describing the procedure for an appeal.

6. A statement that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

B. The Notice of Decision shall be distributed as follows:

1. Publication of the notice in the official City newspaper of general circulation.

2. Mailing of the notice to the applicant or applicant's representative and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted comments on the application.

3. Mailing of the notice to the County Assessor's office.

17.06.042 - Reinitiation of Hearings

A. No person, except the Planning Commission or City Council, shall reapply or reinitiate a petition for a zone change or conditional use for which a public hearing was held, and said request was denied or withdrawn, within a period of time less than the following:

1. Six (6) months after action by the Planning Commission

2. One (1) year after action by the City Council.

Section 17.06.050 - Public Notices

17.06.051 - Purpose and Intent

The intent of this section is to provide procedures for the content and distribution of public notices to ensure that interested persons are provided opportunities to review and comment on projects.

17.06.052 - Notice of Application

A. Within 14 days of issuing a letter of completeness under Section 17.06.034, the Administrator shall issue a Notice of Application. The notice shall include but not be limited to the following:

1. The name of the applicant;

2. Date of application;

3. The date of the letter of completeness;

4. The location of the project (address, assessor's parcel number(s), or legal description);

5. A description of the proposed project;

6. The requested approvals, actions, and/or required studies;

7. A public comment period not less than 14 nor more than 30 days;

8. Identification of existing environmental documents;

9. A City contact and phone number;

10. The date, time, and place of a public hearing if one has been scheduled;

11. A statement that the decision on the application will be made within 120 days of the date of the letter of completeness.

12. A statement of the preliminary determination, if one has been made at the time of notice, of the development regulations that will be used for project mitigation and to determine consistency with the Unified Development Ordinance.

13. SEPA determination, if known at the time of the notice.

B. The Notice of Application shall be distributed as follows:

1. Posted in at least three (3) public buildings, at least 14 days, but not more than 30 days, prior to the hearing;

2. Publication at least ten (10) days before the date of a public meeting in the newspaper of general circulation;

3. If the proposed action is site specific, notice shall be mailed to all property owners within 300 feet of the site, excluding right-of-way. The property owners shall be as shown on the most recent County Assessor's records. Addressed, pre-stamped envelopes shall be provided by the applicant.

C. If the proposed action is site specific, notice of the requested action shall be posted on all street frontages of the site using notices provided by the Planning Department.

D. Notice of an application for Type I Procedure shall be made as follows:

1. The Administrator shall notify the adjacent property owners of intent to grant approval. Notification shall be made by certified mail (return receipt requested) and posting of the property.

2. Final approval will be granted unless a request for a public hearing is filed with the City Clerk within 14 days of the date of the notice.

E. Notice of an application for Type II Procedure shall be made as follows:

1. Publication at least ten (10) days before the date of a public meeting in the official City newspaper of general circulation;

2. Mail to all property owners within 300 feet, not including street rights-of-way, of the boundaries of the property which is subject of the hearing. The notice shall be postmarked at least 14 days, but no more than 30 days, prior to the date of the public hearing. Addressed, pre-stamped envelopes shall be provided by the applicant. The property owners shall be as shown on the most recent County Assessor's records;

3. Post notice of the requested action on all street frontages of the property (properties) affected using notices provided by the Planning Department.

F. Notice of an application for Type III Procedure shall be made as follows:

1. Publication at least ten (10) days before the date of a public meeting in the official City newspaper of general circulation;

2. If the proposed action is for a specific site, notice shall be mailed to all property owners within 300 feet, not including street rights-of-way, of the boundaries of the property which is subject of the hearing. The notice shall be postmarked at least 14 days, but no more than 30 days, prior to the date of the public hearing. Addressed, pre-stamped envelopes shall be provided by the applicant. The property owners shall be as shown on the most recent County Assessor's records;

3. If the proposed action is for a specific site, notice of the requested action shall be posted by the applicant on all street frontages of the property (properties) affected using notices provided by the Administrator.

4. If the application would apply to a large number of properties (for example, an entire zone district) publication of a map of areas affected may substitute for individual notice.

17.06.053 - Notice of Public Hearing

A. If the public hearing date is not provided in the Notice of Application, a separate notice of a public hearing for all development applications shall be given as follows:

1. Publication at least ten (10) days before the date of a public meeting, hearing, or pending action in a newspaper of general circulation in the City; and

2. Mailing at least ten (10) days before the date of a public meeting, hearing, or pending action to all property owners as shown on the records of the County Assessor and to all street addresses of properties within 300 feet, not including street rights-of-way, of the boundaries of the property which is the subject of the meeting or pending action. Addressed, pre-stamped envelopes shall be provided by the applicant; and

3. Posting at least ten (10) days before the meeting, hearing, or pending action in three (3) public places where ordinances are posted and at least one (1) notice on the subject property.

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

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

17.06.054 - Notice of Decision

A. After a decision is made by the review authority, the Administrator shall prepare a Notice of Decision that contains the following:

1. A description of the project or requested action and the location of the property.

2. A statement of any SEPA threshold determination.

3. A statement of the action taken by the review authority.

4. A statement that the action is final unless an appeal is submitted within the appeal period set by this title. The final appeal date shall be provided.

5. A statement describing the procedure for an appeal.

6. A statement that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

B. The Notice of Decision shall be distributed as follows:

1. Publication of the notice in the official City newspaper of general circulation.

2. Mailing of the notice to the applicant or applicant's representative and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted comments on the application.

3. Mailing of the notice to the County Assessor's office.

Section 17.06.060 - Appeals

17.06.061 - General Provisions

A. Any decision on an application for permits described in this Ordinance may be appealed, by applicants or parties of record, as follows:

1. Interpretations, SEPA determinations, and Type I decision may be appealed to the City Council within 14 calendar days of the decision.

2. Type II decision may be appealed within ten (10) days to the City Council and shall be a closed record hearing (RCW 36.70B.060). A Type III decision may be appealed to Stevens County Superior Court within 21 days of the publication of the Notice of Decision as described in the Section 17.06.063 below. (Ord. 1678, 2008)

17.06.062 - Filing of an Appeal

A. the notice of appeal shall contain a concise statement identifying:

1. The decision being appealed;

2. The name and address of the appellant;

3. The specific reasons for the appeal (the appellant shall bear the burden of proving why the decision is inappropriate); and

4. The desired outcome or changes to the decision.

B. The appeal feel shall be paid by the appellant in accordance with the fee resolution adopted by the City Council.

17.06.063 - Judicial Appeal

A. Appeals from the final decision of the City Council for which other appeals specifically authorized have been timely exhausted, shall be made to Stevens County Superior Court within 21 days of the date of publication of the Notice of Decision, unless another time period is established by state law or local ordinance. No person having actual prior notice of the proceedings of the Planning Commission or the City Council hearings shall have standing to challenge the final action unless such person was a party of record at the final hearing.

B. Notice of the appeal and any other pleadings required to be filed with the court shall be served to the Administrator.

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. The appellant shall post with the City Clerk prior to the preparation of any records an advance fee deposit in the amount specified by the City Clerk. Any overage will be promptly returned to the appellant.

Section 17.06.070 - Enforcement

17.06.071 - General Provisions

A. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this title shall be subject to a civil fine of not more than $500 for each violation. Each day that a violation is permitted to exist shall constitute a separate offense.

B. The above does not preclude the City Attorney from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, addition, alteration, conversion, removal, demolition, maintenance or use or to restrain, correct or abate a violation, or to prevent the occupancy of a building or structure or portion thereof, or of the premises, or to prevent an illegal act, conduct, business or use in or about any premises.

17.06.072 - Revocation or Modification of Permits and Approvals

A. Upon receiving a Planning Commission recommendation for revocation or modification of a permit or approval, the City Council shall review the matter at a public hearing. Upon a finding that the activity does not comply with the conditions of approval or the provisions of this title, or creates a nuisance or hazard, the Council may delete, modify or impose such conditions on the permit or approval it deems sufficient to remedy the deficiencies. If the Council finds no reasonable conditions which would remedy the deficiencies, the permit or approval shall be revoked and the activity allowed by the permit or approval shall cease.

B. If a permit or approval is revoked for fraud or deception, no similar application for the same site or from the same applicant shall be accepted for a period of three (3) years from the date of final action and appeal, if any. If a permit or approval is revoked for any other reason, another application may be submitted subject to all of the requirements of this title after one (1) year has elapsed.

APPENDIX A: FIGURES

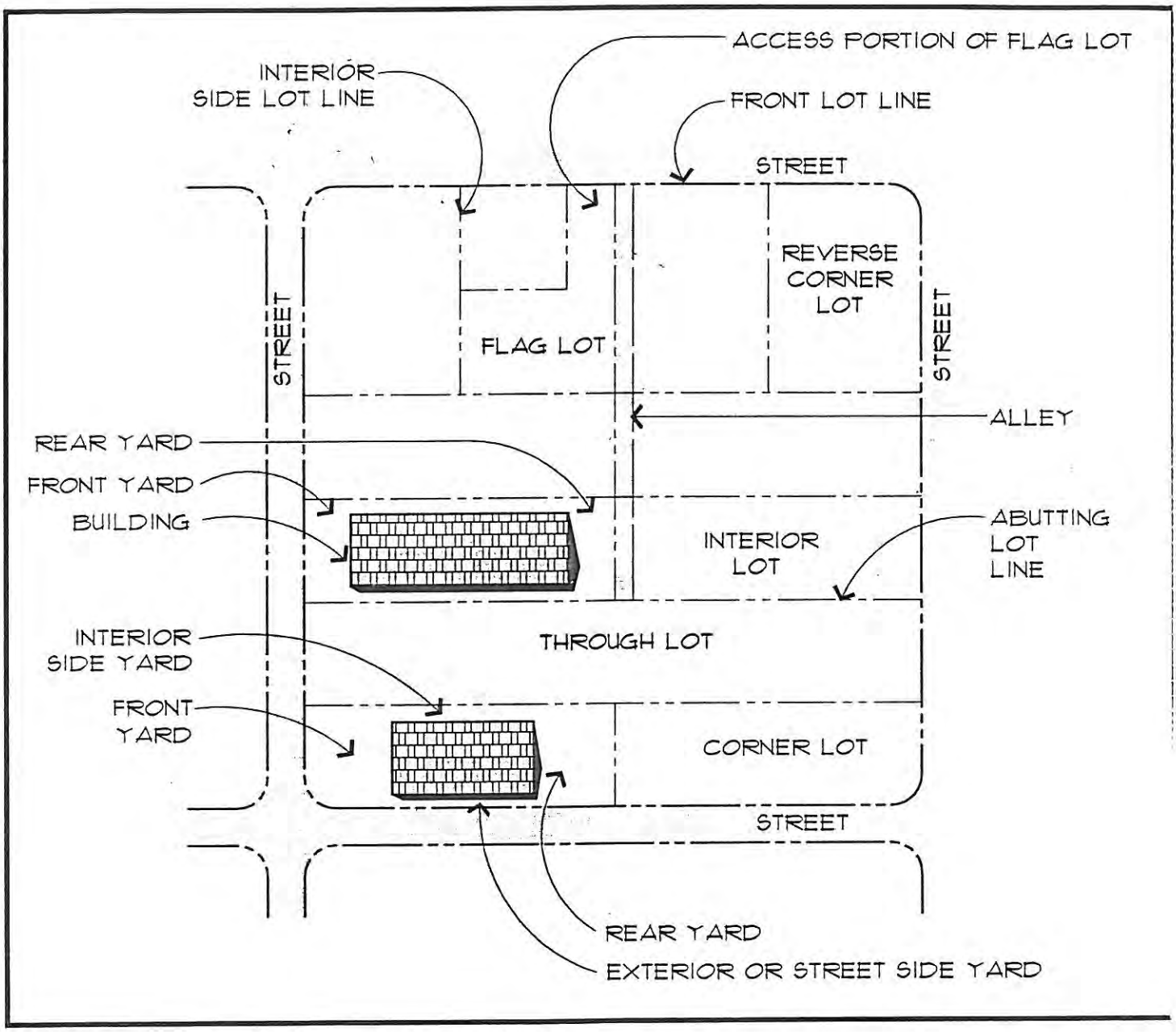


FIGURE 1:

LOT TYPES AND LOT LINES

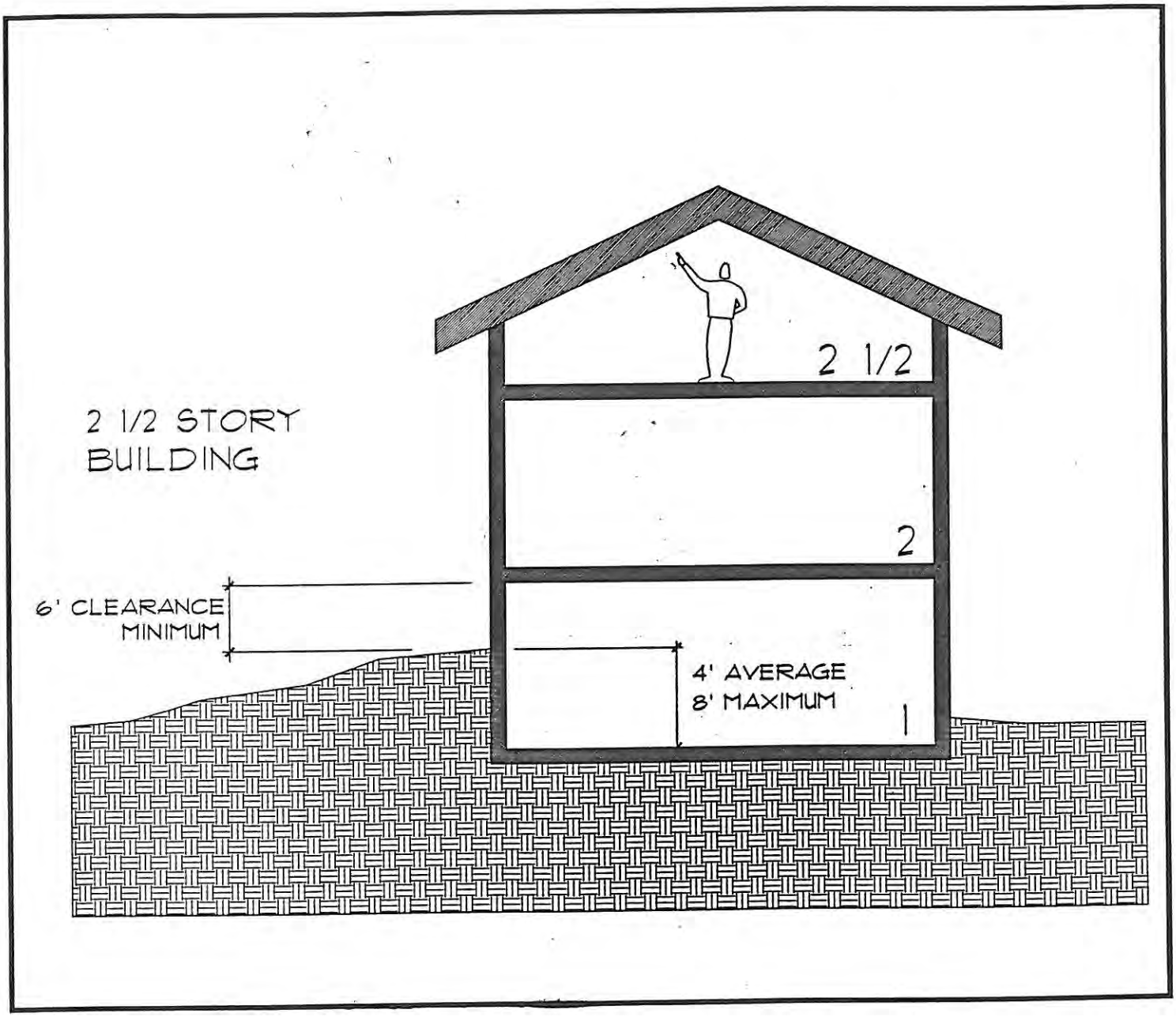
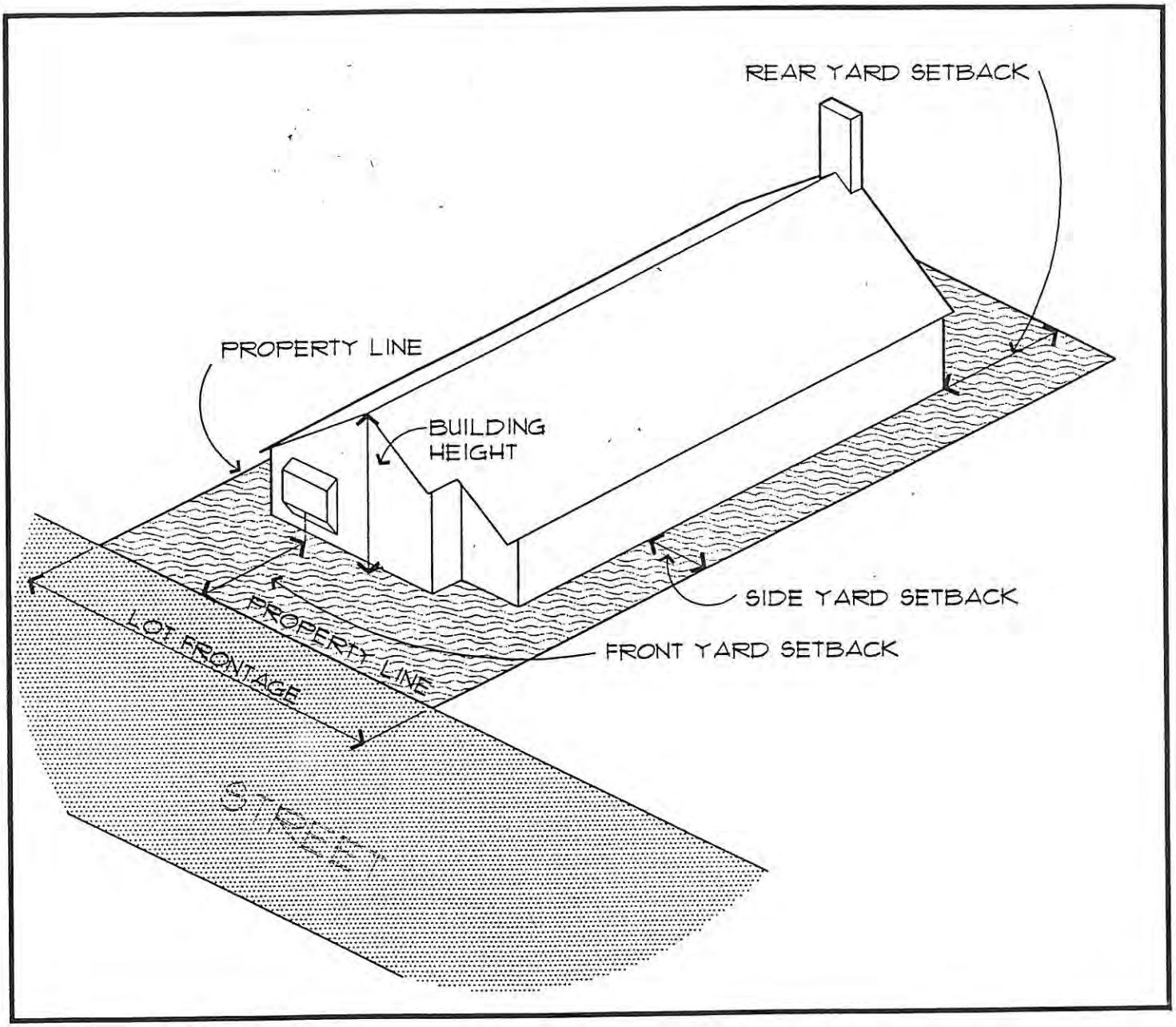


FIGURE 2:
2 1/2 STORY BUILDING



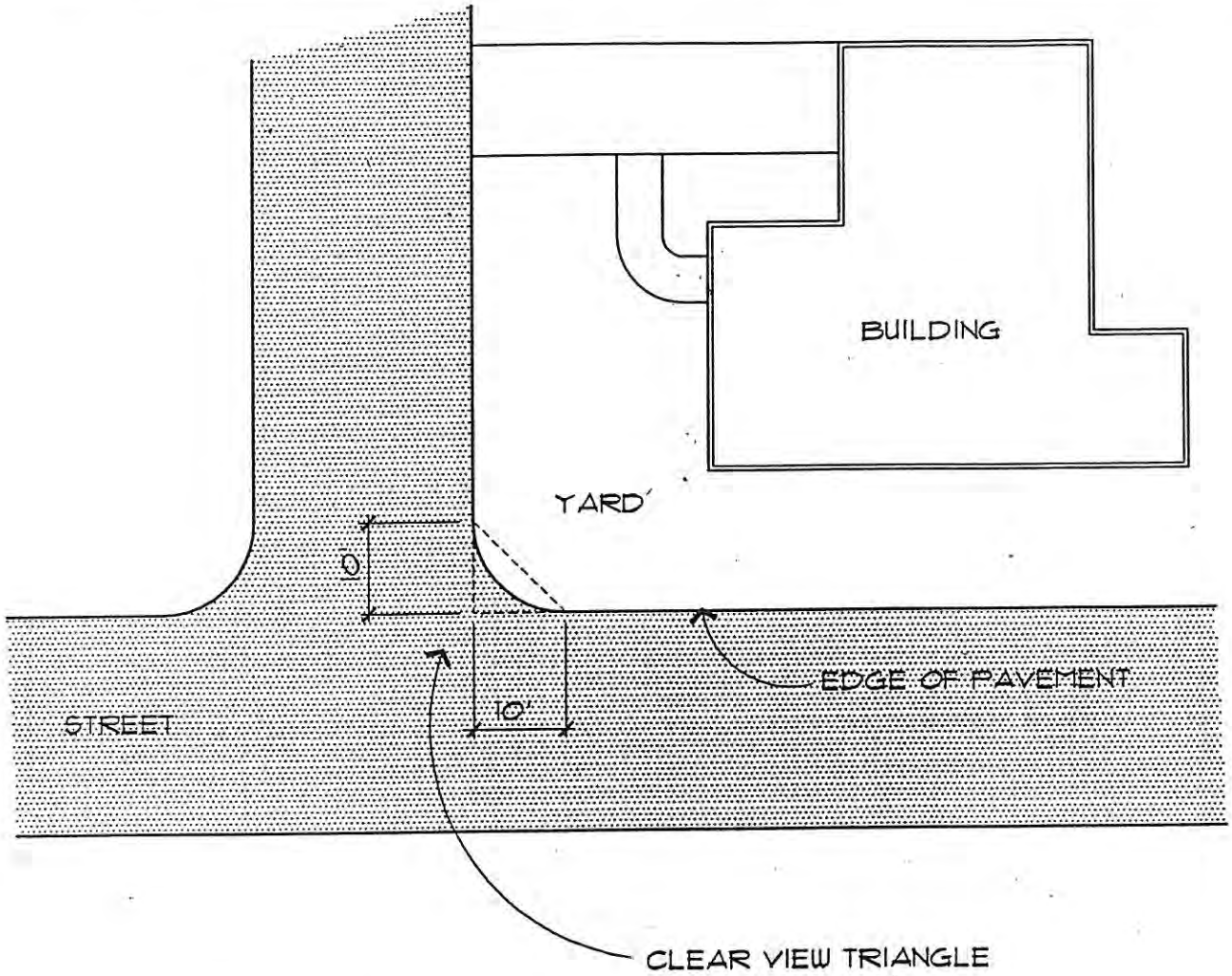
NOTES:
ROOF EAVES MAY PROJECT 2' INTO THE REQUIRED SETBACK.

SETBACK WILL BE CALCULATED FROM THE FURTHEST PROTRUDING ARCHITECTURAL ELEMENT (IN THIS EXAMPLE, A BAY WINDOW) OTHER THAN THE ABOVE MENTIONED ROOF EAVES.

CHIMNEYS ARE NOT INCLUDED IN BUILDING HEIGHT.

FIGURE 3:

DEVELOPMENT STANDARDS



NOTE: CLEAR VIEW TRIANGLE IS TO CONTAIN NO VISUAL OBSTRUCTIONS WITH A HEIGHT OF OVER 36".

FIGURE 4:
CLEAR VIEW TRIANGLE

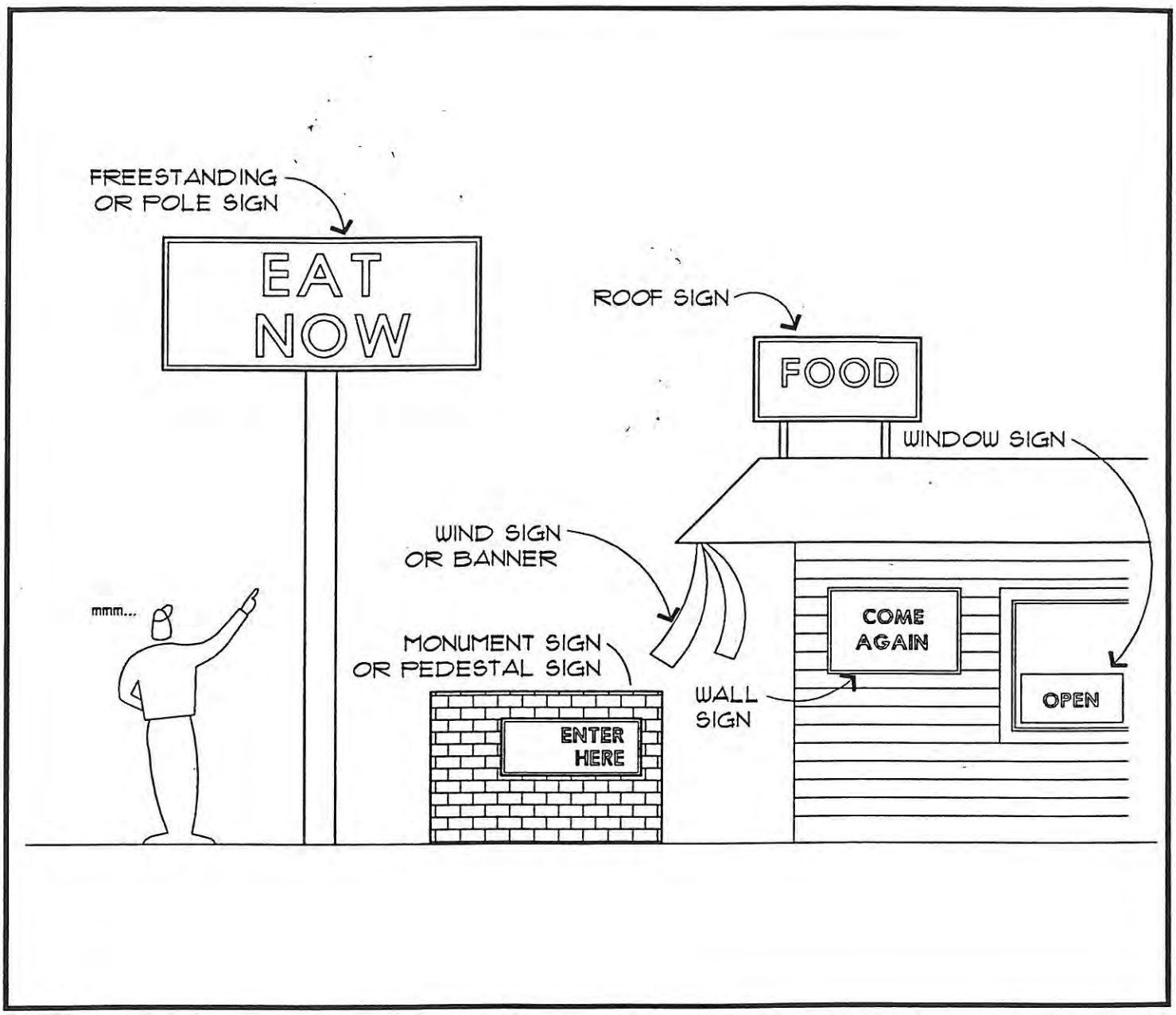


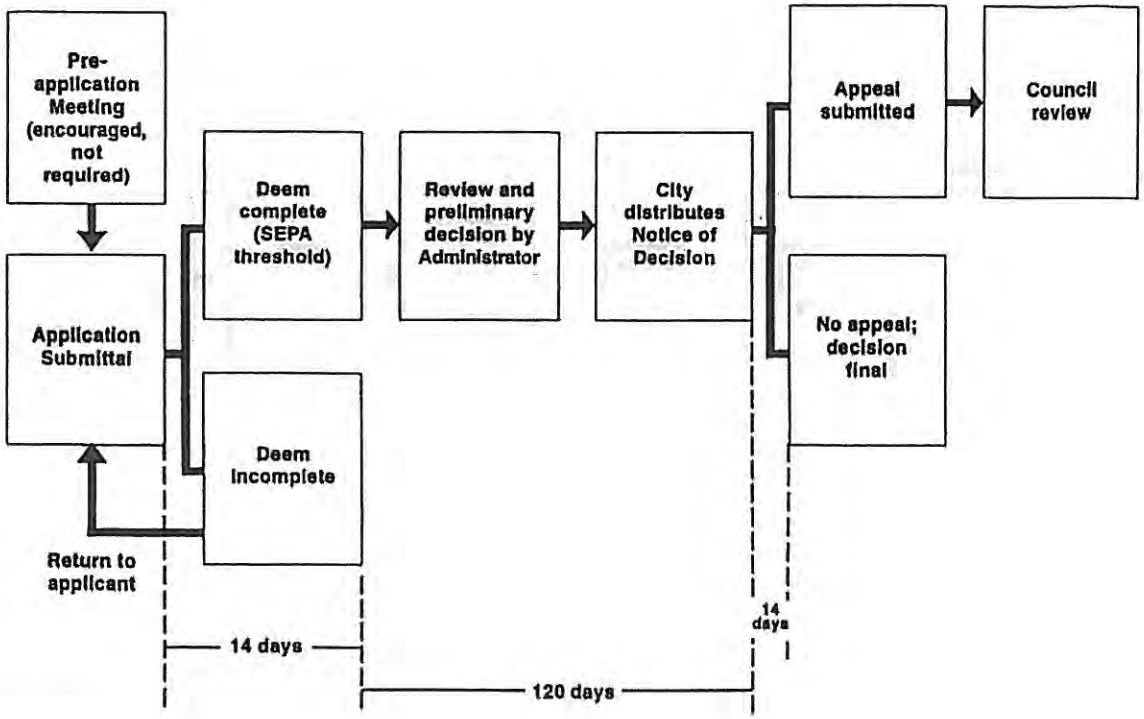
FIGURE 5:
SIGNS

APPENDIX B: PROCEDURAL FLOW CHARTS

TYPE I – ADMINISTRATIVE REVIEW PROCESS

Includes: Temporary Use Permit
Lot Line Adjustment

Reviewed by: Administrative Official

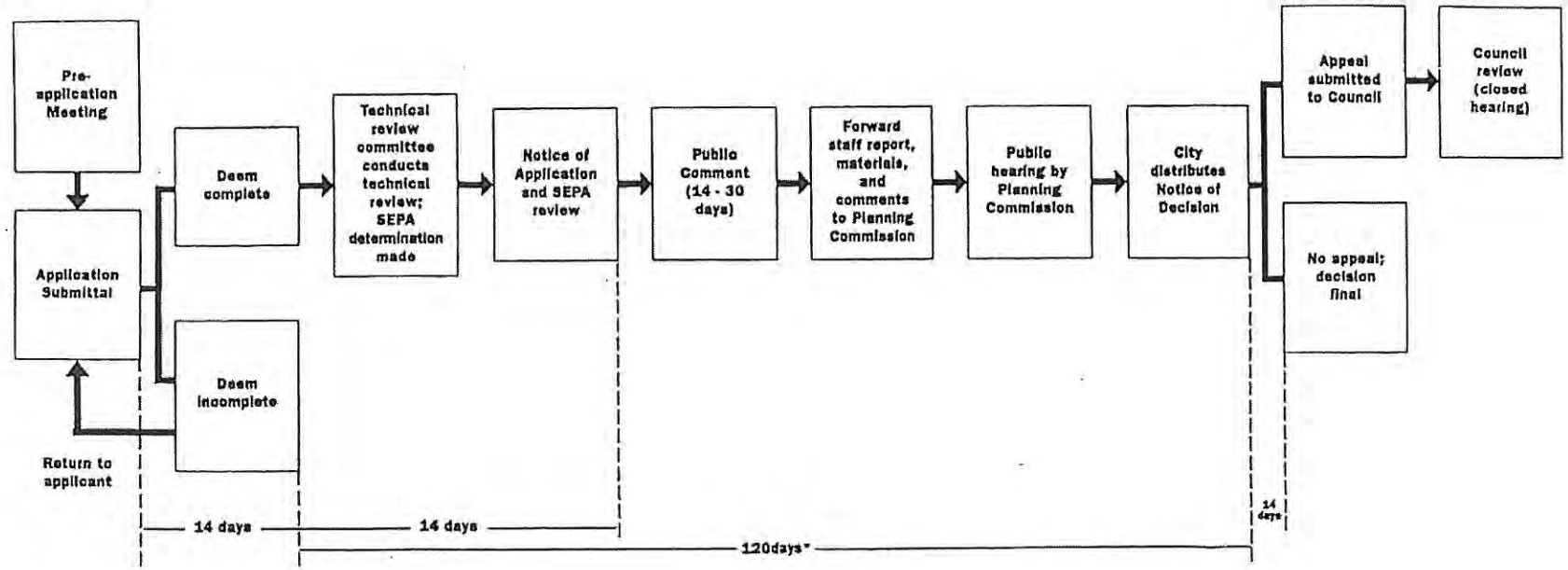


Total processing time: 120 days from the time the application is deemed complete (not including SEPA review or appeals) (Ord. 1678, 2008)

TYPE II – QUASI-JUDICIAL REVIEW PROCESS

Includes: Conditional Use Permit
Site Plan Review
Planned Unit Development
Variance
Short Plat
Final Plat

Reviewed by: Planning Commission (PC)
City Council (CC)



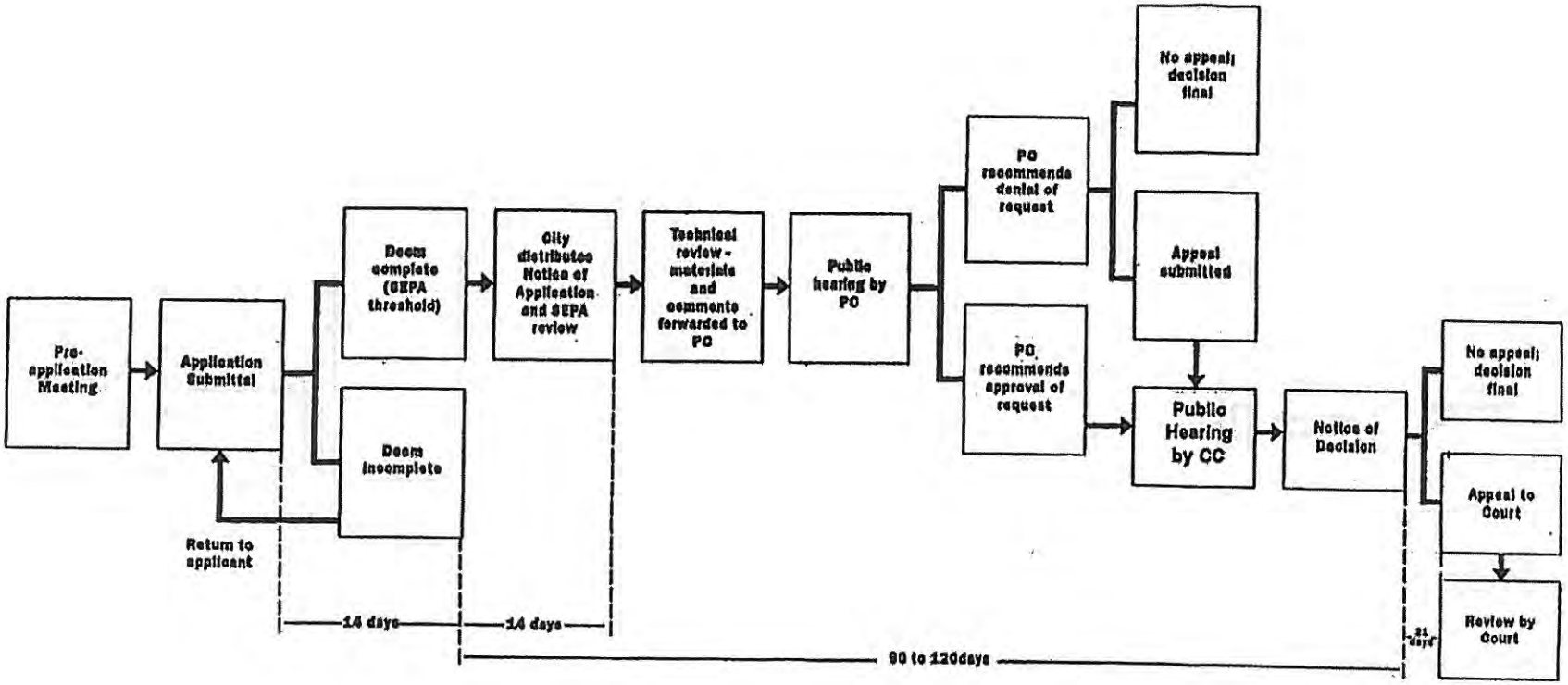
Total processing time: 120 days from the time the application is deemed complete (not including SEPA review or appeals) (Ord. 1678, 2008)

(09/08)

TYPE III – LEGISLATIVE AND PRELIMINARY SUBDIVISION REVIEW PROCESS

Includes: Map Amendments to Comprehensive Land Use Plan
Text Amendments to Comprehensive Land Use Plan
Preliminary Subdivision Plat
Vacation and Alteration

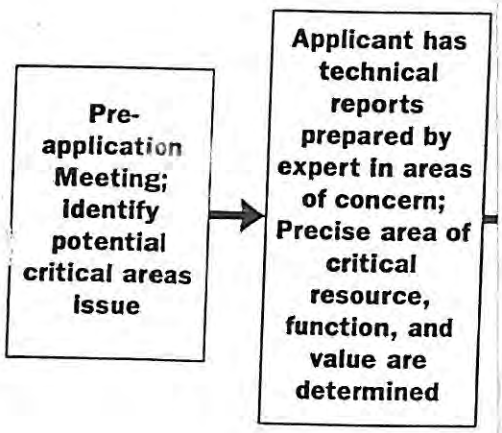
Reviewed by: Planning Commission (PC)
City Council (CC)



Total processing time: 120 days from the time the application is deemed complete (not including SEPA review or appeals) (Ord. 1678, 2008)

(09/08)

DEVELOPMENT REV



*Total processing time: 120 days from t