

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON**

IN THE MATTER OF:

RESOLUTION NO. 22-203

NOTICE OF A PUBLIC HEARING FOR ORDINANCE
1334 TO CONSIDER AMENDMENTS TO THE
LEWIS COUNTY CODE CHAPTER 17.110 TO
CONSOLIDATE THE ADMINISTRATIVE APPEALS
PROCESS FOR A SEPA DETERMINATION ON TYPE
V NON-PROJECT ACTIONS WITH THE
UNDERLYING PERMIT

WHEREAS, the Lewis County Community Development is proposing to amend Chapter 17.110 (State Environmental Policy Act) of the Lewis County Code to consolidate the administrative appeals process for SEPA determinations on Type V non-project actions with the underlying permit; and

WHEREAS, a public hearing was held by the Lewis County Planning Commission (PC) on June 14, 2022, during which the PC considered testimony and voted to approve transmittal of a recommendation to the Board of County Commissioners (BOCC) to adopt amendments to Chapters 17.110 of the Lewis County Code; and

WHEREAS, publication of notice and a hearing before the BOCC is required in order to take public testimony and formal action on the proposed amendments to the Lewis County Code, Chapter 17, Land Use and Development Regulations.

NOW THEREFORE BE IT RESOLVED that a hearing before the BOCC is hereby scheduled to take place at or after 10 a.m. on August 9, 2022, to receive public testimony on Ordinance 1334, which would amend Chapters 17.110 (State Environmental Policy Act) of the Lewis County Code; and

NOW THEREFORE BE IT FURTHER RESOLVED that the Clerk of the Board is hereby instructed to proceed with all appropriate and necessary notifications, postings and publications as required by law.

DONE IN OPEN SESSION this 12th day of July, 2022.

APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

Amber Smith
By: Amber Smith,
Deputy Prosecuting Attorney

Lindsey R. Pollock, DVM
Lindsey R. Pollock, DVM, Chair

ATTEST:
Rieva Lester, Clerk of the Board

Absent
Sean D. Swope, Vice Chair

Lara McRea
By: Lara McRea

F. Lee Grose
F. Lee Grose, Commissioner



NOTICE OF PUBLIC HEARING BEFORE THE LEWIS COUNTY BOARD OF COUNTY COMMISSIONERS AND INTENT TO ADOPT

NOTICE IS HEREBY GIVEN that the LEWIS COUNTY, Washington BOARD OF COUNTY COMMISSIONERS will hold a public hearing on **August 9, 2022** to receive public testimony on proposed amendment to Lewis County Code 17.110, State Environmental Policy Act.

The hearing will take place at or after 10 a.m. in the Commissioners' Hearing Room on the second floor of the Historic Courthouse in Chehalis, Washington. Interested parties are encouraged to check the Commissioners' Business Meeting agenda for the Zoom log-in details. The agenda will be posted at least 24 hours in advance of the meeting on the [Lewis County Agendas & Calendar webpage](#).

The public hearing will consider amendments to the Lewis County Code Chapter 17.110 to consolidate the administrative appeals process for a SEPA Determination on a Type V non-project actions with the underlying permit. The amendment better streamlines the permitting process and complies with state law RCW 43.12C.075. The code amendments were the subject of a duly notice public hearing before the Lewis County Planning Commission on June 14, 2022.

Details about the proposal will be available online at the agenda link provided above. Please select the agenda for July 12 (Notice) or August 9 (Hearing) to see the draft ordinance. The draft is subject to change before or at the hearing. If you wish to receive a paper copy of the proposal, contact Megan Sathre at megan.sathre@lewiscountywa.gov or (360)740-2677 and a copy will be mailed to you.

During the hearing, individuals will be invited to speak and/or provide written statements regarding the proposed changes. All individuals wishing to speak are encouraged to attend. Written comments may be submitted in advance of the hearing by emailing Mindy Brooks, Senior Long Range Planner, at mindy.brooks@lewiscountywa.gov or postal mail to Community Development, c/o Mindy Brooks, 2025 NE Kresky Ave., Chehalis, WA 98532.

To sign up for Community Development email announcements, please visit:
<http://lewiscountywa.gov/communitydevelopment/receive-email-announcements>

The meeting site is barrier free.

People needing special accommodations should contact the phone number shown above 72 hours in advance of the meeting.

PUBLISH: July 14, 2022 in The Chronicle
/Rieva Lester

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LEWIS COUNTY, WASHINGTON**

APPROVE AMEDMENTS TO CHAPTERS 17.110 (STATE	)	
ENVIORNMENTAL POLICY ACT) OF THE	)	
LEWIS COUNTY CODE	)	ORDINANCE 1334
	)	

WHEREAS, as provided for by RCW 36.70A.130, the Lewis County Planning Commission elected to conduct a periodic review and update of Title 17, Land Use and Development Regulations, of the Lewis County Code (LCC) to ensure the plan and regulations comply with the Washington State Growth Management Act; and

WHEREAS, RCW 43.21C.440 allows for adoption of comprehensive plan amendments necessary to enact a planned action including amendments to development regulations that are consistent with a comprehensive plan adopted under RCW 36.70A; and

WHEREAS, WAC 365-196-620 sates that counties must comply with the State Environmental Policy Act when adopting new or amended comprehensive plans and development regulations; and

WHEREAS, RCW 43.12C.075 states that appeals of the governmental action shall be combined with its accompanying environmental determinations; and

WHEREAS, the LCC amendments shown in Exhibit A are consistent with RCW 36.70A, RCW 43.12C.075 and WAC 365-196-620; and

WHEREAS, staff provided notice for a public hearing on the proposed code amendments in the manner prescribed in Chapter 17.05 and 17.12 LCC on May 26, 2022; and

WHEREAS, on June 14, 2022, the Lewis County Planning Commission held a public hearing on the proposed code amendment shown in Exhibits A; and

WHEREAS, following the public hearing, the Planning Commission deliberated and determined that the proposed amendments met the intent and requirements of the Growth Management Act, were consistent with the Lewis County Comprehensive Plan and were in accordance with the public interest; and

WHEREAS, on July 12, 2022, the Lewis County Board of County Commissioners (BOCC) passed Res. 22-### to hold a public hearing on Ordinance 1334 and directed the Clerk of the Board to provide notice of the hearing; and

WHEREAS, the BOCC held a duly noticed public hearing on the proposed amendments to Chapter 17.110 LCC on August 2, 2022; and

WHEREAS, the BOCC finds the proposed amendments to LCC Title 17.110 to be in the best public interest.

NOW THEREFORE BE IT RESOLVED the Board of County Commissioners hereby adopts amendments to Title 17.110 of Lewis County Code as shown in Exhibit A.

PASSED IN REGULAR SESSION THIS _____ day of _____, 2022.

APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

By: Civil Deputy Prosecuting Attorney

Lyndsey R. Pollock, DVM, Chair

ATTEST:

Sean Swope, Vice Chair

Rieva Lester, Clerk of the Board

F. Lee Grose, Commissioner

LEWIS COUNTY PLANNING COMMISSION

Lorie Spogen, Chair

LETTER OF TRANSMITTAL

To: Lewis County Board of County Commissioners

From: Lewis County Planning Commission

Date: June 15, 2022

Subject: **Transmittal to the BOCC – Amendment to Lewis County Code, Chapter 17.110, regarding the SEPA Appeal Process**

Dear Commissioners:

The purpose of this report is to transmit to the Board of County Commissioners (BOCC) an amendment to Lewis County Code (LCC) 17.110, State Environmental Policy Act, which would remove redundancy by adding the following underlined text to subsection LLC 17.110.130(1): "Those aggrieved by the requirements, decisions, or determinations made by the responsible official in the completion of the threshold determination process may appeal such decisions to the Hearing Examiner pursuant to Chapter 2.25 LCC; except, there is no administrative appeal for procedural issues or for substantive issues of a SEPA threshold determination on a Type V non-project actions or Type V site-specific rezone applications." See Attachment A, page 2.

Today there are two appeal periods for Type V permits: 1) is an administrative appeal period of 7 days following the SEPA determination; and 2) is two appeal periods, 21 days for procedural and 60 days for substantive, following the final decision by BOCC. The amendment would remove the first appeal period and consolidate it with the appeal periods that follow the final decision.

The underlying final BOCC decision on a Type V non-project action (e.g., amendment to a development regulation) or site-specific rezone or UGA amendment, could still be appealed for either procedural issues or substantive issues, including any issues associated with the SEPA determination. This consolidated with the underlying decision streamlines the process and better complies with state law RCW 43.12C.075.

Staff also recommend making two minor clerical amendments, see Attachment A, page 2 and 4. First, LLC 17.110. 130(2) the deadline for submitting an appeal is revised from 4:30pm to 4:00pm because the cash registers are closed at 4:00pm to allow for daily accounting. Second, LLC 17.110.130(5) reference to LLC 17.20 is updated because 17.20 has been amended to include subsections. Neither of these is a substantive change.

Findings of Fact

1. Lewis County is required by RCW 36.70A.130 to periodically review and evaluate its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the Washington State Growth Management Act; and
2. WAC 365-196-620 states that counties must comply with the State Environmental Policy Act when adopting new or amended comprehensive plans and development regulations; and
3. The LCC Chapter 17.110.130 was last amended in June 2021 by Ordinance No. 1170C; and
4. RCW 43.12C.075 states that appeals of the governmental action shall be combined with its accompanying environmental determinations. The proposed amendment to LCC 17.110.130 will combine the SEPA determination administrative appeal process with underlying Type V non-project action, such as amendments to development regulations, or Type V site-specific actions such as rezones or UGA amendments; and
5. Staff provided notice for a public hearing on the proposed code amendments in the manner prescribed in LCC 17.05 and 17.12 on May 26, 2022; and
6. On June 14, 2022, the Lewis County Planning Commission held a public hearing on the proposed code amendments in LCC 17.110 (Exhibit A); and
7. Following the public hearing, the Planning Commission deliberated and determined that the proposed amendments met the intent and requirements of the Growth Management Act and were in accordance with the public interest.

Recommendation

Based on the above findings, the Lewis County Planning Commission recommends that the Board of County Commissioners pass an ordinance that adopts the proposed changes to LCC Chapter 17.110, State Environmental Policy Act.

Being duly authorized to transmit the recommendations on behalf of the Lewis County Planning Commission, I hereby respectfully submit the documents to the Lewis County Board of County Commissioners.

Exhibits:

A. Lewis County Code Chapter 17.110

Submitted by Lorie Spogen Date 6-15-2022
Lorie Spogen, Chair
Lewis County Planning Commission

EXHIBIT A – AMENDMENTS TO LEWIS COUNTY CODE 17.110 – STATE ENVIRONMENTAL POLICY ACT

Code text to be removed is shown with a ~~strike through~~ and code text to be added is shown with an underline.

CHAPTER 17.110, STATE ENVIRONMENTAL POLICY ACT

Article I. Title

[No change]

Article II. Authority

[No change]

Article III. General Requirements

[No change]

Article IV. Categorical Exemptions and Threshold Determinations

17.110.080 Determinations.

[No change]

17.110.090 Flexible thresholds for categorical exemptions.

[No change]

17.110.100 Use of exemptions.

[No change]

17.110.110 Environmental checklist.

[No change]

17.110.120 Mitigated DNS.

[No change]

17.110.130 Appeals of threshold determinations.

- (1) Those aggrieved by the requirements, decisions, or determinations made by the responsible official in the completion of the threshold determination process may appeal such decisions to the Hearing Examiner pursuant to Chapter 2.25 LCC; except, there is no administrative appeal for procedural issues or for substantive issues of a SEPA threshold determination on a Type V non-project actions or Type V site-specific rezone applications.
- (2) For proposals which do not involve another agency with jurisdiction, an appeal of a threshold determination must be received by the Hearings Examiner within fourteen (14) calendar days (and not later than four-thirty p.m. on the last day for such filing) of the date of issuance of the threshold determination or, if there is a comment period under WAC 197-11-340, within seven (7) calendar days of the last day of the comment period. If the last day of the appeal period is a holiday or a weekend, the appeal must be filed by four-thirty p.m. on the first weekday following such holiday or weekend.
- (3) Public hearings on appeals of a determination of significance, mitigated determination of non-significance, or determination of non-significance shall occur prior to any decision by the Hearings Examiner. If the underlying proposal is reviewed by the Hearings Examiner, the SEPA appeal may be heard in concurrence with the public hearing on the underlying appeal, in accordance with Ch. 36.70B RCW.
- (4) Appeals shall be made in writing and filed in duplicate with the department of community development with the appropriate filing fee.
- (5) Those aggrieved by the decision of Hearing Examiner on any appeal may appeal such decision to the superior court of Lewis County pursuant to Chapter 36.70C.

Article V. Environmental Impact Statement (EIS)

[No change]

Article VI. Commenting

[No change]

Article VII. Using Existing Environmental Documents

[No change]

Article VIII. SEPA and Agency Decisions

17.110.200 Rules and policies.

[No change]

17.110.210 Substantive authority.

- (1) The policies and goals set forth in this chapter are supplementary to those in the existing authorization of Lewis County.
- (2) The county may attach conditions to a permit or approval for a proposal as long as:
 - (a) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter; and
 - (b) Such conditions are in writing; and
 - (c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
 - (d) The county has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
 - (e) Such conditions are based on one or more policies in subsection (4) of this section and cited in the license or other decision document.
- (3) The county may deny a permit or approval for a proposal on the basis of SEPA as long as:
 - (a) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this chapter; and
 - (b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
 - (c) The denial is based on one or more policies identified in subsection (4) of this section and identified in writing in the decision document.
- (4) The county designates and adopts by reference the following policies as the basis for the county's exercise of authority pursuant to this section:
 - (a) The county shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
 - i. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations,

- ii. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings,
 - iii. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences,
 - iv. Preserve important historic, cultural, and natural aspects of our national heritage,
 - v. Maintain, wherever possible, an environment which supports diversity and variety of individual choice,
 - vi. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities, and
 - vii. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources;
- (b) The county recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.
- (5) Except for permits and variances issued pursuant to Chapter 17.20A, 17.20B, 17.20C, 17.20D and 17.20E LCC, when any proposal or action not requiring a decision of the Hearing Examiner is conditioned or denied on the basis of SEPA by a nonelected official, the decision shall be appealable to the Hearing Examiner. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the responsible official within 10 days of the decision being appealed. Review by the Hearing Examiner shall be on a de novo basis.

17.110.220 Notice - Statute of limitations.

[No change]

Article IX. Definitions

[No change]

Article X. Categorical Exemptions

[No change]

Article XI. Agency Compliance

[No change]

Article XII. Forms

[No change]

BOCC AGENDA ITEM SUMMARY

Resolution:**BOCC Meeting Date:** July 12, 2022**Suggested Wording for Agenda Item:****Agenda Type:** Legal Notice

Notice of a public hearing for Ordinance 1334 to consider amendments to the Lewis County Code Chapter 17.110 to consolidate the administrative appeals process for a SEPA Determination on Type V non-project actions with the underlying permit

Contact: Mindy Brooks**Phone:** 3607402610**Department:** CD - Community Development**Description:**

Notice of a public hearing for Ordinance 1334 to consider amendments to the Lewis County Code Chapter 17.110 to consolidate the administrative appeals process for a SEPA Determination on Type V non-project actions with the underlying permit

Approvals:

User	Status
PA's Office	Pending

Publication Requirements:**Publications:**

The Chronicle

Additional Copies:**Cover Letter To:**