<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
<td></td>
<td>4/30/2018</td>
<td></td>
<td>5/22/2018</td>
<td>Finance Committee</td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td>06</td>
<td>2-4-18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
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</tr>
<tr>
<td>Executive:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:**
Annual presentation from the Commission Against Domestic Violence

**ATTACHMENTS:**

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes ( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes ( ) NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes ( ) NO</td>
<td>Requested Date:</td>
<td></td>
</tr>
</tbody>
</table>

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)
Annual presentation from the Commission Against Domestic Violence

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
criminal justice

**Our partners include:** Local police departments, courts, prosecutors, probation, defense attorneys

**How we partner:** Implement and train on policies that increase offender accountability and improve victim safety

faith communities

**Our partners include:** Fountain Community Church, Christ the King, United Church of Ferndale, Christ Lutheran Church

**How we partner:** Lead conversations about domestic violence by creating resources for clergy to prevent and address domestic violence in their congregations

service providers

**Our partners include:** Domestic Violence and Sexual Assault Services of Whatcom County (DVSAS), Lummi Victims of Crime, Brigid Collins, Northwest Youth Services

**How we partner:** Leverage position for federal funding to achieve coordinated, comprehensive community-based solutions

schools

**Our partners include:** Blaine School District, Mt. Baker School District, Ferndale School District

**How we partner:** Work with district officials, school administrators, counselors, and youth to build capacity of schools to end domestic violence

government agencies

**Our partners include:** Child Protective Services, Whatcom County Health Department, Department of Social and Health Services (DSHS)

**How we partner:** Participate and lead efforts for developing coordinated protocols

*For a full list of partners, visit www.dvcommission.org*
**WHO WE ARE:**
We identify problems and promote solutions to reduce, prevent, and end domestic violence.

---

**raise consciousness**
Engage the community to increase public consciousness to prevent and intervene in abuse.

**Featured Project:**
Collaborated with faith leaders to develop the unique resource, *Responding to Domestic Violence: A Toolkit for Faith Communities*.

The toolkit for faith communities has been downloaded more than 400 times since fall 2014.

---

**promote policies**
Research and promote best practices that increase victim safety and offender accountability.

**Featured Project:**
Led efforts to train and implement Whatcom County Domestic Violence High Risk Team to prevent domestic violence homicide.

Since implementation, the Domestic Violence High Risk Team has monitored more than 30 high-risk offenders.

---

**develop resources**
Leverage the unique role of the DV Commission to obtain federal funding for community-based solutions.

**Featured Project:**
Secured pilot project and expansion funding for programs to address domestic violence in multiple local school districts.

Raised over $3.2 million in cumulative federal funding since 2005, used for policy, training, research, and data collection.

---

**build skills and tools**
Partner with organizations, schools, and businesses to develop plans and increase capacity to respond to abuse.

**Featured Project:**
Collaborated with Ferndale School District to expand efforts to enhance school's responses and prevention of abuse.

In partnership with Ferndale School District, over 130 Whatcom County youth attended a 2015 summit on ending abuse.

---

For more information about our projects, visit www.dvcommission.org
The Commission consists of 14 government and 14 community members. Government officials are designated by government position. Community members are selected by the Mayor and the County Executive from among members of the community who have an interest in, or are impacted by, domestic violence.

### (14) Designated Government Representatives

<table>
<thead>
<tr>
<th>Term Exp.</th>
<th>Name</th>
<th>Community Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 31, 2021</td>
<td>Silvia Johnson</td>
<td>Area Administrator, DSHS/Children’s Administration</td>
</tr>
<tr>
<td>January 31, 2022</td>
<td>Mike Riber</td>
<td>Administrator, DSHS/Community Service Office</td>
</tr>
<tr>
<td>January 31, 2019</td>
<td>Jon Mutchler</td>
<td>Designated Representative-Whatcom County Cities</td>
</tr>
<tr>
<td>January 31, 2020</td>
<td>Kevin Turner</td>
<td>Selected Police Chief-Whatcom County Cities</td>
</tr>
<tr>
<td>January 31, 2020</td>
<td>Linda Quinn</td>
<td>Selected Superintendent-Whatcom Co. School Districts</td>
</tr>
<tr>
<td>N/A</td>
<td>Bruce Van Glubt</td>
<td>Whatcom County Probation Administrator</td>
</tr>
<tr>
<td>N/A</td>
<td>Dave Reynolds</td>
<td>Whatcom County Superior Court Administrator</td>
</tr>
<tr>
<td>N/A</td>
<td>Regina Delahunt</td>
<td>Whatcom County Health Department Director</td>
</tr>
<tr>
<td>N/A</td>
<td>William Elfo</td>
<td>Whatcom County Sheriff</td>
</tr>
<tr>
<td>N/A</td>
<td>David Doll</td>
<td>Bellingham Police Chief</td>
</tr>
<tr>
<td>N/A</td>
<td>Dave McCachran</td>
<td>Whatcom County Prosecutor</td>
</tr>
<tr>
<td>N/A</td>
<td>Stark Follis</td>
<td>Whatcom County Public Defender</td>
</tr>
<tr>
<td>N/A</td>
<td>Darlene Peterson</td>
<td>Bellingham Municipal Court Administrator</td>
</tr>
<tr>
<td>N/A</td>
<td>Peter Ruffatto</td>
<td>Bellingham City Attorney</td>
</tr>
</tbody>
</table>

### (7) County Community Appointments

<table>
<thead>
<tr>
<th>Term Exp.</th>
<th>Name</th>
<th>Community Position</th>
<th>Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 31, 2019</td>
<td>Garret Shelsta</td>
<td>Community at Large</td>
<td>CTK Bellingham</td>
</tr>
<tr>
<td>January 31, 2019</td>
<td>Moonwater</td>
<td>Human Service Provider</td>
<td>Whatcom Dispute Resolution Center</td>
</tr>
<tr>
<td>January 31, 2020</td>
<td>Michele Ziotek</td>
<td>Major Employer</td>
<td>Whatcom County Transit Authority</td>
</tr>
<tr>
<td>January 31, 2020</td>
<td>Karen Burke</td>
<td>Domestic Violence Victim Service Provider</td>
<td>Domestic Violence &amp; Sexual Assault Services</td>
</tr>
<tr>
<td>January 31, 2021</td>
<td>Lorayne Dennis</td>
<td>Community at Large</td>
<td>Lummi Victims of Crime</td>
</tr>
<tr>
<td>January 31, 2022</td>
<td>Christina Kobdish</td>
<td>Health Care Provider</td>
<td>Unity Care NW</td>
</tr>
<tr>
<td>January 31, 2022</td>
<td>Michael Parker</td>
<td>Human Service Provider</td>
<td>Whatcom Homeless Service Center</td>
</tr>
</tbody>
</table>

### (7) City Community Appointments

<table>
<thead>
<tr>
<th>Term Exp.</th>
<th>Name</th>
<th>Community Position</th>
<th>Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 31, 2019</td>
<td>Sharon Rutherford</td>
<td>Health Care Provider</td>
<td>St. Joseph Hospital</td>
</tr>
<tr>
<td>January 31, 2019</td>
<td>Alan Artman</td>
<td>Major Employer</td>
<td>Faithlife Corp</td>
</tr>
<tr>
<td>January 31, 2021</td>
<td>Ken Levinson</td>
<td>Community at Large</td>
<td>Family Services, Nooksack Indian Tribe</td>
</tr>
<tr>
<td>January 31, 2021</td>
<td>Mary Welch</td>
<td>Domestic Violence Victim Service Provider</td>
<td>Northwest Justice Project</td>
</tr>
<tr>
<td>January 31, 2021</td>
<td>Beth Boyd</td>
<td>Human Service Provider</td>
<td>Peace Health Medical Center</td>
</tr>
<tr>
<td>January 31, 2022</td>
<td>Riannon Bardsley</td>
<td>Human Service Provider</td>
<td>Northwest Youth Services</td>
</tr>
<tr>
<td>January 31, 2022</td>
<td>Katie Plewa Olvera</td>
<td>Community at Large</td>
<td>KPO Counseling, PLLC</td>
</tr>
</tbody>
</table>
PROVIDING LEADERSHIP IN OUR COMMUNITY’S EFFORTS TO REDUCE AND PREVENT DOMESTIC VIOLENCE
Commission Against Domestic Violence

**History**

- The DV Commission was formed in 1998 by a joint resolution between the City of Bellingham and Whatcom County.
- In 2006, Ordinances of Support were passed by each of the additional municipalities of Whatcom County.

**Mission**

- To provide leadership in our community’s efforts to reduce and prevent domestic violence.
# DV Commission members, Whatcom County

<table>
<thead>
<tr>
<th>Designated Government Representatives</th>
<th>Community Appointments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bruce Van Glubt</td>
<td>Christina Kobdish</td>
</tr>
<tr>
<td>Dave Reynolds</td>
<td>Garret Shelsta</td>
</tr>
<tr>
<td>Regina Delahunt</td>
<td>Moonwater</td>
</tr>
<tr>
<td>Sheriff Bill Elfo</td>
<td>Michele Zlotek</td>
</tr>
<tr>
<td>Dave McEachran</td>
<td>Karen Burke</td>
</tr>
<tr>
<td>Starck Follis</td>
<td>Lorayne Dennis</td>
</tr>
<tr>
<td></td>
<td>Mike Parker</td>
</tr>
</tbody>
</table>
Improving Criminal Justice Responses to Sexual Assault

Safe Futures for Children & Youth

Office on Violence Against Women (OVW)

Grants, US Department of Justice,

City of Ferndale
City of Bellingham
Whatcom County

Local Government Funding
“In the past, he has slammed my fingers in a door, has pushed me making me fall over furniture, and has thrown me across the room. His behavior is escalating and I am very afraid that he will go off the deep end and really hurt me or kill me and the kids. Since Wednesday, he has been texting me and emailing me continually with highly inappropriate sexual content.”

“All of a sudden the door opened. I tried to run. He smacked me. I fell down, got up, and told him to leave. He demanded sex, then pushed me on the ground. I was crying and told him no. He spit on me, said I wasn’t worth it, and walked out.”

“In July he strangled me, broke my glasses and beat my shins, causing me to limp for several days. At the end of August he hit me in the face for the first time leaving marks. In September he pulled me by the hair and threw me around so hard, jerking me so badly by the neck that I went to the doctor and received x-rays...he destroyed 3 cell phones, my car stereo and console, my digital camera.”
DV High Risk Team

43 offenders are currently being actively monitored by the DVHRT

- Purpose to prevent domestic violence homicide and serious assault in Whatcom County
- Focus on behaviors and monitoring of offenders
- Review patterns of abuse and communicate information and monitoring plans across disciplines
- Members include: law enforcement, prosecution, probation/parole, perpetrator treatment, child protection, victim advocates
Safe Futures for Children & Youth

"A freshman reported that they were sexually assaulted at school by another student – he was older, and law enforcement got involved and they didn’t have enough evidence to do anything. She and the offender still go to school together and see each other all the time. She is still struggling."

"We are still lacking some resourced to address in-depth and complex aspects – sometimes we label or are tempted to intervene in the way adults do with teenagers and just tell them, ‘look, this is a bad relationship and I know better and you should stop seeing them,’ even though we know that approach doesn’t work."

"[One barrier for queer youth] is blatant queer phobia, people don’t want to talk to them or people don’t want to listen to them or associate with them – so not only is it hard for a victim to come forward, but that victim is afraid of being harassed or being made to feel unsafe or outed because they are queer."
Safe Futures for Children & Youth

Preventing and responding to domestic violence, adolescent relationship abuse, and sexual assault: in partnership with Blaine, Ferndale, and Mt. Baker School Districts; and DVSAS, Lummi Victims of Crime, Northwest Youth Services, and Brigid Collins

- Blaine – high school youth led an all-school assembly, with follow-up quizzes, discussion, and resources in all advisory classes
- Ferndale – developing updated middle and high school, and new elementary school, identification and response protocols
- Mt. Baker – provided conversation tools on healthy relationships for parent engagement nights
- Blaine, Ferndale, and Lummi Victims of Crime – representatives attended a Healthy Masculinity Institute and will bring training to staff and youth in our communities
- Blaine, Ferndale, and Mt. Baker – developed procedures & MOUs to facilitate on-site advocacy, support, and therapy services for students by partner agencies
Sexual Assault
National Demonstration Audit

"Sometimes the way agencies respond to you ends up actually being worse than the incident. The way they continually put things back in the lap of the victim. When they say they are going to follow up with you or do something and don’t. It’s put back on you, to either let it go or keep trying to get the system to follow up.”

"After the 2 year anniversary of the incident, I hadn’t heard anything and so I called. She told me that a few months after I reported they decided there was not enough evidence and no one every told me they closed the case.”

"...I fell like it’s just my fault for being there and being alive and being available. I don’t know what to do. I’m kind of lost with that feeling. Talking about it helps me so much because it was buried so deep that it’s taken this long for things to start coming up again. I feel abandoned by the system, totally abandoned.”
Sexual Assault
National Demonstration Audit

How does the Bellingham-Whatcom County criminal legal system meet the justice needs of survivors of sexual assault?

- Multi-disciplinary Sexual Assault Audit Team
- Data collection
  - Survivor focus groups and interviews
  - Stakeholder focus groups and interviews
  - Case file reviews
  - Observations
  - Numbers and statistics
- Findings, report, and recommendations
Please Join Us

DV Commission Annual Meeting

Annual Meeting Agenda: Consideration of DV Commission mission expansion to include sexual assault.

Thursday, May 24, 2018
8:00 to 10:00 am
Bellingham Unitarian Fellowship
1207 Ellsworth Street, Bellingham, WA 98225

Please RSVP to Elizabeth Montoya at (360) 312-5700 or emontoya@dvcommission.org by May 17th.
Questions or comments?

Susan Marks
360.312.5700 x 1242

smarks@dvcommission.org

www.dvcommission.org
Finance will present its quarterly report to Council.

Finance Manager Bennett’s quarterly report to Council.

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
TITLE OF DOCUMENT: 2018 Supplemental Budget Request #7

ATTACHMENTS: Ordinance, Memoranda & Budget Modification Requests

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( X ) NO
Should Clerk schedule a hearing? ( ) Yes ( X ) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Supplemental #7 requests funding from the General Fund:
1. To appropriate $310,000 in Non Departmental to fund criminal justice audio visual system upgrades.
2. To appropriate $2,000 in Parks to fund Stimpson Nature Reserve bridge renovation from donation proceeds.
3. To appropriate $34,253 in Health to partially fund new Human Services Supervisor position.

From the Veterans Relief Fund:
4. To appropriate $5,270 to partially fund new Human Services Supervisor position.

From the Low Income Housing Fund:
5. To appropriate $32,197 to fund homeless housing operations from increased document recording fees.

From the Homeless Housing Fund:
6. To appropriate $13,964 to partially fund new Human Services Supervisor position from increased document recording fees.
7. To appropriate $302,278 and add an FTE to fund increased homeless housing support from additional document recording fees.

From the Trial Court Improvement Fund:
8. To appropriate $205,000 to partially fund criminal justice audio visual system upgrade.

From Real Estate Excise Tax Fund II:
9. To appropriate $100,000 to fund Lookout Mountain slope stabilization and road repair.

From the Real Estate Excise Tax Fund I:
10. To appropriate $836,000 for Parks to fund Plantation Indoor Range HVAC and roof replacement.
11. To re-appropriate $11,500 for AS-Facilities to fund direct digital control system.

From the Administrative Services Fund:
12. To appropriate and charge out $55,207 in Facilities to fund construction coordinator/project manager position.
13. To appropriate $8,770 in Facilities to fund one-time costs in support of construction coordinator/project manager position.

COMMITTEE ACTION:

COUNCIL ACTION:
5/8/2018: Introduced 6-0
ORDINANCE NO.
AMENDMENT NO. 7 OF THE 2018 BUDGET

WHEREAS, the 2017-2018 budget was adopted December 6, 2016; and,
WHEREAS, changing circumstances require modifications to the approved 2017-2018 budget; and,
WHEREAS, the modifications to the budget have been assembled here for deliberation by the Whatcom County Council.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2017-2018 Whatcom County Budget Ordinance #2016-068 is hereby amended by adding the following additional amounts to the 2018 budget included therein:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non Departmental</td>
<td>310,000</td>
<td>(205,000)</td>
<td>105,000</td>
</tr>
<tr>
<td>Parks</td>
<td>2,000</td>
<td>(2,000)</td>
<td>-</td>
</tr>
<tr>
<td>Health</td>
<td>34,253</td>
<td>-</td>
<td>34,253</td>
</tr>
<tr>
<td>Total General Fund</td>
<td>346,253</td>
<td>(207,000)</td>
<td>139,253</td>
</tr>
<tr>
<td>Veterans Relief Fund</td>
<td>5,270</td>
<td>-</td>
<td>5,270</td>
</tr>
<tr>
<td>Low Income Housing Fund</td>
<td>32,197</td>
<td>(32,197)</td>
<td>-</td>
</tr>
<tr>
<td>Homeless Housing Fund</td>
<td>316,242</td>
<td>(316,242)</td>
<td>-</td>
</tr>
<tr>
<td>Trial Court Improvement Fund</td>
<td>205,000</td>
<td>-</td>
<td>205,000</td>
</tr>
<tr>
<td>Real Estate Excise Tax Fund II</td>
<td>100,000</td>
<td>-</td>
<td>100,000</td>
</tr>
<tr>
<td>Real Estate Excise Tax Fund I</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parks</td>
<td>836,000</td>
<td>(294,400)</td>
<td>541,600</td>
</tr>
<tr>
<td>AS- Facilities</td>
<td>11,500</td>
<td>-</td>
<td>11,500</td>
</tr>
<tr>
<td>Total Real Estate Excise Tax Fund I</td>
<td>847,500</td>
<td>(294,400)</td>
<td>553,100</td>
</tr>
<tr>
<td>Administrative Services Fund</td>
<td>8,770</td>
<td>-</td>
<td>8,770</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td>1,861,232</td>
<td>(849,839)</td>
<td>1,011,393</td>
</tr>
</tbody>
</table>

In addition, Exhibit C – Authorized Positions in the 2017-2018 Budget Ordinance should be amended to provide for the following FTE changes:
- Add 1 FTE Human Services Supervisor in Health
- Add 1 FTE Community Health Specialist in Health
- Add 1 FTE Construction Coordinator in AS-Facilities.

ADOPTED this ___ day of ______________________, 2018.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

__________________________
Dana Brown-Davis, Council Clerk

__________________________
Rud Browne, Chair of the Council

APPROVED AS TO FORM:

( ) Approved  ( ) Denied

__________________________
Jack Louws, County Executive

Date: ______________________

I:\BUDGET\SUPPLS\2018_Suppl\Supplemental #7-2018.docx
19
# Summary of the 2018 Supplemental Budget Ordinance No. 7

<table>
<thead>
<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased (Decreased) Expenditure</th>
<th>(Increased) Decreased Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Fund</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non Departmental</td>
<td>To fund criminal justice audio visual systems upgrade.</td>
<td>310,000 (205,000)</td>
<td>105,000</td>
<td></td>
</tr>
<tr>
<td>Parks</td>
<td>To fund Stimpson Family Nature Reserve bridge renovation from donation proceeds.</td>
<td>2,000 (2,000)</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Health</td>
<td>To partially fund Human Services Supervisor position.</td>
<td>34,253</td>
<td>-</td>
<td>34,253</td>
</tr>
<tr>
<td><strong>Total General Fund</strong></td>
<td></td>
<td>346,253 (207,000)</td>
<td>139,253</td>
<td></td>
</tr>
<tr>
<td>Veterans Relief Fund</td>
<td>To partially fund Human Services Supervisor position.</td>
<td>5,270</td>
<td>-</td>
<td>5,270</td>
</tr>
<tr>
<td>Low Income Housing Fund</td>
<td>To fund homeless housing operations from increased document recording fees.</td>
<td>32,197 (32,197)</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td><strong>Homeless Housing Fund</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health</td>
<td>To partially fund Human Services Supervisor position from increased document recording fees.</td>
<td>13,964 (13,964)</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Health</td>
<td>To fund increased homeless housing support from additional document recording fees.</td>
<td>302,278 (302,278)</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td><strong>Total Homeless Housing Fund</strong></td>
<td></td>
<td>316,242 (316,242)</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Trial Court Improvement Fund</td>
<td>To partially fund criminal justice audio visual systems upgrade.</td>
<td>205,000</td>
<td>-</td>
<td>205,000</td>
</tr>
<tr>
<td><strong>Real Estate Excise Tax Fund II</strong></td>
<td>To fund Lookout Mountain slope stabilization and road repair.</td>
<td>100,000</td>
<td>-</td>
<td>100,000</td>
</tr>
<tr>
<td><strong>Real Estate Excise Tax Fund I</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parks</td>
<td>To fund Plantation Indoor Range HVAC and roof replacement.</td>
<td>836,000 (294,400)</td>
<td>541,600</td>
<td></td>
</tr>
<tr>
<td>AS- Facilities</td>
<td>To re-appropriate funding for direct digital control (DDC) system.</td>
<td>11,500</td>
<td>-</td>
<td>11,500</td>
</tr>
<tr>
<td><strong>Total Real Estate Excise Tax Fund I</strong></td>
<td></td>
<td>847,500 (294,400)</td>
<td>553,100</td>
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</tr>
<tr>
<td><strong>Administrative Services Fund</strong></td>
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<td></td>
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</tr>
<tr>
<td>Facilities</td>
<td>To fund and charge out construction coordinator/project manager position (Admin Services home cost center; charged out to capital project budgets.)</td>
<td>-</td>
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<tr>
<td>Facilities</td>
<td>To fund one-time costs to support construction coordinator/project manager position.</td>
<td>8,770</td>
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<td><strong>Total Administrative Services Fund</strong></td>
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<td>1,861,232 (849,839)</td>
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MEMORANDUM

TO: Jack Louws, County Executive
    Whatcom County Council

FROM: Perry Rice, IT Manager

RE: Supplemental Budget Request – Criminal Justice Audio Visual Systems

DATE: May 1, 2018

Enclosed for your consideration is a supplemental budget request of $310,000 to upgrade audio visual systems in six courtrooms and to provide video conferencing capabilities for our criminal justice system.

- **Background and Purpose**
  Superior Court and District court have Jefferson Audio Visual Systems (JAVS) to record proceedings in 8 court rooms. In 2015, end-of-life JAVS systems were replaced in 2 Superior Court rooms. The remaining 6 JAVS recording systems are end-of-life and need to be replaced. This replacement will also provide attorneys with built in presentation capabilities from their computer laptops.

  In addition to replacing the court room JAVS recording systems, Superior Court, District Court, the Prosecuting Attorney’s Office and the Public Defender’s Office will need video conferencing capabilities to remote correctional facilities when our inmates are relocated for the Main Jail Repairs project starting this summer.

- **Funding Request and Source**
  Funding for this Supplemental Budget Request is as follows:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Trial Court Improvement Fund</td>
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<tr>
<td>General Fund</td>
<td>$105,000</td>
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<td></td>
<td>$310,000</td>
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</table>

- **Contact Information**
  Please contact Perry Rice at x5235 if you have any questions regarding this request.
Supplemental Budget Request

Name of Request: Upgrade Criminal Justice AV Systems

1a. Description of request:
Upgrade Courtroom Jefferson Audio Visual Systems (JAVS) in District Court (3), Superior Court (2) and Jail Court (1). Include video conferencing capabilities to connect to Yakima Corrections during the Jail Repairs Project. Also provide Prosecuting Attorney’s Office and Public Defender’s Office with video conferencing capabilities.

1b. Primary customers:
Superior Court
District Court
Municipal Courts that Use Jail Courtroom
Prosecuting Attorney’s Office
Public Defender’s Office
Attorneys
Citizens

2. Problem to be solved:
Whatcom County currently has 8 courtrooms with Audio Visual Recording Systems. District Court has 3, Superior Court has 4 and the Mail Jail has 1 courtroom with Audio Visual Recording Systems. 6 of these Audio Visual Recording Systems are end-of-life and need to be upgraded.

The Main Jail Repair Project will require inmates to be moved to other locations such as Yakima Correctional Facility during the work. Our criminal justice system will need video conferencing capabilities during this work which will also be beneficial after the work is completed. This includes the courtrooms, Prosecutor’s Office, Public Defender’s Office and citizen viewing rooms.

3a. Options / Advantages:
Courtroom AIV Upgrades:

The primary alternative is to continue to use the current audio visual recording systems. This is not a good alternative since the vendor is ending support and the courts must have recordings or transcripts of court proceedings.

Criminal Justice System Video Conferencing:

The primary alternative is to transport inmates for court proceedings and to also have Prosecutor’s and Public Defender’s travel to remote locations to work with clients. The transport and travel costs in addition to court logistics make this option infeasible.
Supplemental Budget Request

<table>
<thead>
<tr>
<th>Administrative Services</th>
<th>Information Technology</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fund: 1</td>
<td>Cost Center: 4532</td>
</tr>
<tr>
<td>Originator: Perry Rice for Criminal Justi</td>
<td></td>
</tr>
</tbody>
</table>

3b. Cost savings:
The primary cost savings would be avoiding the court interruptions if an end-of-life marginally supported system failed. Court reporters might need to be hired on an emergency basis.

Travel and transport costs would also be avoided when inmates are relocated to accommodate the Main Jail Repair Project.

4a. Outcomes:
- 6 Court Audio Visual Recording Systems would be upgraded in 2018

- Video Conferencing Capabilities would be provided to Courts, Prosecutor's Office and Public Defender's Office

4b. Measures:
Criminal Justice System will have upgraded court Audio Visual Systems and video conferencing capabilities to remote locations during and beyond Main Jail Repairs.

5a. Other Departments/Agencies:
Superior Court
District Court
Sheriff's Office
Prosecuting Attorney's Office
Public Defender's Office
Municipal Courts that Use the Main Jail Courtroom
Facilities Management
Information Technology

5b. Name the person in charge of implementation and what they are responsible for:
Information Technology, Facilities Management and our vendor will be working closely with our contacts in the Criminal Justice System.

6. Funding Source:
Trial Court Improvement Fund and General Fund

Wednesday, April 25, 2018
MEMORANDUM

TO: Jack Louws, Executive
FROM: Michael McFarlane
DATE: April 13th, 2018
RE: Budget Supplementals 2584, 2586, 2589

Please find three budget supplementals for your review and approval.

Supplemental 2584: This supplemental requests $2,000 of funding to repair and renovate several small pedestrian bridges on the trail at the Stimpson Family Nature Reserve. Funding for this project is being provided through a donation received from the Rotary Club of Bellingham.

Supplemental 2586: This request is to repair the main road in the Lookout Mountain Forest Preserve. This road began to experience a failure in early February when a crack was discovered. This road services not only park users, but is the power corridor and access to the communication tower sites on top of the mountain. A steep unconsolidated slope, buried power cable, residential proximity and the need to accommodate larger vehicles are challenges addressed in this project. Project costs are estimated to not exceed $100,000 and REET II funding is being requested.

Supplemental 2589: Funding is requested for replacement of the roof and HVAC system at the indoor range at the Plantation Rifle Range. This project was placed on hold several years ago pending grant funding and a design modification which included the roof replacement. Two FARR funding grants in the amount of $294,400 have been procured from the State. An additional $541,000 is being requested from REET I.
Supplemental Budget Request

Parks & Recreation

Supp'l ID # 2584  |  Fund 1  |  Cost Center 6357  |  Originator: Michael McFarlane

Expenditure Type: One-Time  |  Year 2 2018  |  Add'l FTE  |  Add'l Space  |  Priority 1

Name of Request: Stimpson Family Nature Reserve Bridge Donation

X

Department Head Signature (Required on Hard Copy Submission)  Date  4-16-18

<table>
<thead>
<tr>
<th>Costs: Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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<tbody>
<tr>
<td>6320.002</td>
<td>Office &amp; Op Supplies</td>
<td>$2,000</td>
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<tr>
<td>8301.126</td>
<td>Operating Transfer In</td>
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<tr>
<td>Request Total</td>
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<td>$0</td>
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</tbody>
</table>

1a. Description of request:
The Rotary Club of Bellingham has donated $2,000 for renovation of the pedestrian bridges at the Stimpson Family Nature Reserve. The bridges require new decking, rails and or supports. Funds will be used to purchase materials and Park & Recreation Staff assisted by volunteers will complete the work.

1b. Primary customers:
Visitors to the Stimpson Family Nature Reserve. In 2017, the Reserve had over 34,000 visitations. Most visitors are Whatcom County residents.

2. Problem to be solved:
The decking and other wooden elements on the pedestrian bridges are past or approaching their anticipated life spans. Replacement of these elements will allow the structures to remain in good condition providing continued use and access to park visitors and reducing risk to the County.

3a. Options / Advantages:
While repairs have been made to keep the bridges safe and functioning, these bridge structures have been assessed by staff and are at the end of their life spans. Replacement or major renovation is warranted.

3b. Cost savings:
Funding for this project is being provided by a donation from the Rotary Club of Bellingham.

4a. Outcomes:
Work will be scheduled this spring and completion is expected by the end of June.

4b. Measures:
Upgrades to the bridge structures will be completed and the trail system open and in use by the public.

5a. Other Departments/Agencies:
This project will require a natural resource notification to Whatcom Planning and Development Services. An HPA (Hydraulic Project Approval) has already been obtained for the Washington State Department of Fish and Wildlife.

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
Donation from the Rotary Club of Bellingham currently being held in the Parks Special Revenue Fund.

Monday, April 16, 2018
Supplemental Budget Request

Status: Pending

**Health**

**Fund**: 1
**Cost Center**: 690900
**Originator**: Patty Proctor

**Expenditure Type**: One-Time
**Year**: 2018
**Add'l FTE**: Yes
**Add'l Space**: No
**Priority**: 1

**Name of Request**: Human Services Supervisor - Developmental Disabilities

**Department Head Signature (Required on Hard Copy Submission)**: 4/20/18

<table>
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<th>Costs</th>
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<td>6230</td>
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<td>6255</td>
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<td></td>
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<td>Request Total</td>
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</table>

**Costs**: $34,253

1a. Description of request:

This request partially funds the addition of a Human Services Supervisor position. This will be a full-time position within the Health Department that supervises staff and programs in the areas of Developmental Disabilities, Homelessness and Affordable Housing, and Veterans.

1b. Primary customers:

The Health Department's Human Services division, community partners, interdepartmental partners, intergovernmental partners, and residents of Whatcom County in need of services.

2. Problem to be solved:

Currently, the Human Services Manager directly supervises 6 program staff and 3 major program areas. Developmental Disabilities, Veterans Services and Homeless and Affordable Housing. Supervision is fulfilled to the extent possible within time and energy constraints. The Human Services Manager is not able to provide sufficient in-depth support or supervision to the programs or staff as well as provide the broad budgetary, program planning and contract oversight needed for the division. Due to lack of program planning and implementation capacity, the Developmental Disabilities local program fund balance has increased significantly over the past few years. The fund balance is expected to reach over $1 million by year end. Individuals with developmental disabilities are in need of services that would qualify for this funding, yet we are unable to respond in a timely manner with additional programs and services. Similar situations also exist in our Veterans and Housing programs where we are experiencing increased revenue and workload.

3a. Options / Advantages:

Program performance, and sufficient staff supervision and support will both be improved with the addition of this position. Program evaluations and increased quality management will be realized with the addition of this supervisor position within the Human Services Division. A community needs assessment and strategic planning process will be completed to inform the design and implementation of new and expanded program and services. Current staff in Developmental Disabilities, Veterans and Housing programs will have the support they need to perform their job duties, and meet their work obligations with

Friday, April 20, 2018

Rpt: Rpt Suppl Regular
high quality.

3b. Cost savings:
Unknown at this time. It is assumed that the increased attention and work focused on programming effectiveness and evaluation will produce greater cost savings in the future.

4a. Outcomes:
The Human Services Supervisor will supervise five staff positions who focus their work in the noted program areas. Specific focus will be targeted initially on expanding and enhancing services in the community utilizing available local funds dedicated to these service areas, especially Developmental Disabilities.

4b. Measures:
Human Services Supervisor is hired and supervising five staff and related community programs. Programs and services in the program areas will be increased and/or enhanced, fund balance will be utilized and remain at a reasonable stable level and Human Services staff will be sufficiently supported.

5a. Other Departments/Agencies:
Program and service expansion will benefit community agencies currently providing these services. Additional benefit will be realized by the community in terms of increased support to homeless housing efforts, the Whatcom GRACE program, and the criminal justice system efforts to prevent and reduce incarceration.

5b. Name the person in charge of implementation and what they are responsible for:
Anne Deacon, Human Services Manager, will recruit and hire the position.

6. Funding Source:
Developmental Disabilities Millage will provide partial funding for this position. Other sources of funding for this position include local Document Recording Fees, and Veterans Millage. This supplemental is the portion that is paid through the general fund. Separate supplemental budgets are submitted for the Veteran Millage and Document Recording Fee portion. See supplemental ID 2587 and 2588.
Supplemental Budget Request

Health

Fund 114  Cost Center 114  Originator: Patty Proctor

Expenditure Type: One-Time  Year 2 2018  Add'l FTE  Add'l Space  Priority 1

Name of Request: Human Services Supervisor - Veteran Millage

X

Department Head Signature (Required on Hard Copy Submission)  Date

4/20/18

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
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<tr>
<td>6190</td>
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<td>$5,270</td>
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Request Total $5,270

1a. Description of request:
This request is a companion to supplemental request 2582. This request is to establish budget authority for the Veteran Program portion of a new Human Services Supervisor.

1b. Primary customers:
The Health Department’s Human Services division, community partners, inter-departmental partners, intergovernmental partners, and residents of Whatcom County in need of services.

2. Problem to be solved:
Currently, the Veteran program has no Supervisor position assigned. Supervision is fulfilled to the extent possible within time and energy constraints. The Human Services Manager is not able to provide sufficient in-depth support or supervision to the program or staff as well as provide the broad budgetary, program planning and contract oversight needed for the division.

3a. Options / Advantages:
Program performance, and sufficient staff supervision and support will both be improved with the addition of this position. Program evaluations and increased quality management will be realized with the addition of this supervisor position within the Human Services division.

3b. Cost savings:
Unknown at this time. It is assumed that the increased attention and work focused on programming effectiveness and evaluation will produce greater cost savings in the future.

4a. Outcomes:
Specific focus will be targeted initially on expanding and enhancing services in the community utilizing available local funds dedicated to these service areas.

4b. Measures:
Human Services Supervisor is hired and supervising staff and related community programs.

5a. Other Departments/Agencies:
Program and service expansion will benefit community agencies currently providing these services.

5b. Name the person in charge of implementation and what they are responsible for:
Anne Deacon, Human Services Manager, will recruit and hire the position.

6. Funding Source:
Fund Balance
Supplemental Budget Request

Status: Pending

Health

Human Services

Supp ID #: 2585

Fund 121  Cost Center 121100  Originator: Patty Proctor

Expenditure Type: One-Time  Year 2 2018  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: Homeless Housing Operations

Department Head Signature (Required on Hard Copy Submission)  Date

X

Regina A. DeLaet  4/29/18

<table>
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<td>4341.2100</td>
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<tr>
<td>6610</td>
<td>Contractual Services</td>
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</table>

| Request Total | $0 |

1a. Description of request:

Increase spending authority to allow for allocation of new funds coming from document recording fees. This increase in fees is a result of recent state legislation. The document recording fee was increased by $3 per document. The county retains 60% of that amount ($1.80 per document), and the other 40% goes to the state. This will increase the annual amount of revenue from this source by approximately $64,400. The county's average annual revenue for this fund will increase to approximately $270,000. These funds will be used to increase support for operations at specialized shelters and housing facilities.

1b. Primary customers:

Specialized shelters and housing program facilities and the individuals they serve (Individuals who are victims of domestic violence, or releasing from correctional facilities, or discharging from treatment facilities, or disenfranchised youth, or who are chronically homeless due to behavioral health challenges).

2. Problem to be solved:

Specialized shelters and staffed housing programs/facilities do not have adequate private funding to cover fully the cost of operations.

3a. Options / Advantages:

Individuals in need of these services will have access to support and safe housing. On-site services will provide assistance in moving toward permanent housing solutions.

3b. Cost savings:

Individuals who receive these services are much more likely to stabilize, engage in treatment and other necessary services, and progress toward independence. County funds will provide partial support, often leveraging other monies.

4a. Outcomes:

Specialized shelters and housing program facilities will have operational costs supported, thereby stabilizing their programs. Some of these costs include 24/7 personnel, rent, utilities and meals, program supplies, and supportive services.

4b. Measures:

The Health Department tracks the number of individuals served, how many move into more permanent housing, and engagement in treatment or other services. Specialized shelters and housing facilities supported by these monies can serve up to 80 individuals or households at any given time.

5a. Other Departments/Agencies:

Community partners providing these services include Sun House, DVSAS, Interfaith Coalition, the Northwest Youth Services Positive Adolescent Development program, and City Gate Apartments program.

Friday, April 20, 2018  Rpt: Rpt Suppl Regular
Supplemental Budget Request

<table>
<thead>
<tr>
<th>Health</th>
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<tr>
<td>Fund</td>
<td>Cost Center</td>
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<tr>
<td>121</td>
<td>121100</td>
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</table>

**Status:** Pending

5b. **Name the person in charge of implementation and what they are responsible for:**

Anne Deacon, Human Services Manager, will work with staff to ensure quality performance of the community programs funded by these additional dollars.

6. **Funding Source:**

Local document recording fees.
Supplemental Budget Request

Status: Pending

Health | Human Services
---|---
Fund: 122 | Cost Center: 122200 | Originator: Patty Proctor
Expenditure Type: One-Time | Year: 2018 | Add'l FTE | Add'l Space | Priority: 1
Name of Request: Human Services Supervisor - Housing

Department Head Signature (Required on Hard Copy Submission)

Date: 4/20/18

<table>
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<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
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<tr>
<td>8351</td>
<td>Operating Transfer Out</td>
<td>$790</td>
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Request Total: $0

1a. Description of request:
Companion to Supplemental request ID 2582. This request is to establish budget authority for the Homeless Housing Program portion of a new Human Services Supervisor.

1b. Primary customers:
The Health Department's Human Services division, community partners, inter-departmental partners, intergovernmental partners, and residents of Whatcom County in need of services.

2. Problem to be solved:
Currently, the Homeless program has no Supervisor position assigned. Supervision is fulfilled to the extent possible within time and energy constraints. The Human Services Manager is not able to provide sufficient in-depth support or supervision to the program or staff as well as provide the broad budgetary, program planning and contract oversight needed for the division.

3a. Options / Advantages:
Program performance, and sufficient staff supervision and support will both be improved with the addition of this position. Program evaluations and increased quality management will be realized with the addition of this supervisor position within the Human Services division.

3b. Cost savings:
Unknown at this time. It is assumed that the increased attention and work focused on programming effectiveness and evaluation will produce greater cost savings in the future.

4a. Outcomes:
Specific focus will be targeted initially on expanding and enhancing services in the community utilizing available local funds dedicated to these service areas.

4b. Measures:
Human Services Supervisor is hired and supervising staff and related community programs.

5a. Other Departments/Agencies:
Program and service expansion will benefit community agencies currently providing these services.

5b. Name the person in charge of implementation and what they are responsible for:
Anne Deacon, Human Services Manager, will recruit and hire the position.

6. Funding Source:
This revenue increase is a result of 2018 state legislation increasing local document recording fees.

Friday, April 20, 2018
Supplemental Budget Request

Status: Pending

<table>
<thead>
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<tbody>
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<td>Cost Center 12200</td>
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Expenditure Type: One-Time

Add'l FTE: √
Add'l Space: ☐
Priority: 1

Name of Request: Homeless Housing Program Support

Department Head Signature (Required on Hard Copy Submission)  
Date: 4/20/18

<table>
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<th>Object Description</th>
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<td>8351</td>
<td>Operating Transfer Out</td>
<td>$18,137</td>
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Request Total: $0

1a. Description of request:

This request adds additional revenue dedicated to homeless housing activities, derived from an increase to local document recording fees. This revenue increase is a result of 2018 state legislation that increased the document recording fee by $22 per document. The first $10 goes to counties. Of the remaining $12 per document, 64% goes to counties, and the remainder goes to the state. This increase will bring in approximately $632,000 per year, bringing the total amount of annual revenue for this fund to approximately $1.7 million. This additional revenue will be directed to increase case management and other supportive services to individuals experiencing homelessness. This request also funds the addition of a Housing Community Health Specialist position to provide program support for the Homelessness and Affordable Housing program.

1b. Primary customers:

Whatcom County residents in need of housing assistance. The Health Department's Human Services division, community partners, inter-departmental partners, and intergovernmental partners.

2. Problem to be solved:

Case management services and rental assistance support to the homeless population are currently inadequate to meet current community needs. Rental assistance funds derived from various federal grants to community partners is not being fully utilized at this time because of the level of case management required by these federal grant funds. Case Managers and rental assistance are needed to help individuals who are homeless attain and retain housing.

Human Services staffing is currently inadequate. The division has only one Program Specialist assigned to the housing program. Increased demands of this program from the Washington State Department of

Friday, April 20, 2018
Supplemental Budget Request

<table>
<thead>
<tr>
<th>Health</th>
<th>Human Services</th>
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<tbody>
<tr>
<td>Fund 122</td>
<td>Cost Center 122200</td>
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Commerce as well as the community’s continued challenges of homelessness and affordable housing require more response and action than one full-time equivalent position can deliver. Revenues dedicated to housing activities and associated workload demands in the county’s homelessness and affordable housing program have increased over the past few years by 225%. Total county dollars dedicated to housing in 2015 was $2.5 million. In 2019 the total will increase to almost $5.8 million, and by 2021 will likely reach $7.2 million.

3a. Options / Advantages:

Adequate Case Management services will optimize the use of federal grants in our community that support rental assistance. More individuals who are experiencing homelessness will attain and retain housing. Program implementation, performance, and reporting will be improved with the additional staff resources dedicated to this complex program. Program evaluations and increased quality management will also be realized with the addition of a staff position within the Human Services division. Whatcom County’s homeless housing successes have been publicly recognized at the state level, even in the face of national, state, and local increases in homelessness. The additional resources will continue to improve on these successes.

3b. Cost savings:

Federal grant funding will be fully expended with additional case management support, thereby mitigating the risk of losing that funding in the future. Individuals who are homeless will be stably housed, promoting opportunities for recovery from health challenges, increasing opportunities for gainful employment and contributing back to the community. Due to recent legislation, local revenue available to this program has increased significantly. Work expectations have increased along with this revenue increase. This additional staff position will add much needed support to this complex and challenging program, allowing the Health Department to fulfill more of its obligations to the community in reducing homelessness. It is assumed that the increased attention and work focused on programming effectiveness and evaluation will produce greater cost savings to the entire community in the future.

4a. Outcomes:

More individuals will be stably housed. The Community Health Specialist will assist with contract management, program evaluation, strategic planning and development of community partnerships and programs. Specific focus will be targeted initially on expanding and enhancing services in the community utilizing available local dedicated funds.

4b. Measures:

Housing case management capacity will increase resulting in greater housing retention for those individuals who are newly housed. It is expected that each Case Manager position added in the community will serve an additional 20 – 35 individuals depending upon their unique needs. The Health Department will be able to comply fully with the additional contract requirements of the state’s Department of Commerce and federal regulations. Program evaluations, reporting, and contracts management will be current.

5a. Other Departments/Agencies:

Program quality assurance and service expansion will benefit community agencies currently providing these services. Additional benefit will be realized by the community in terms of increased support to homeless housing efforts, the Whatcom GRACE program, and the criminal justice system efforts to prevent and reduce incarceration.

5b. Name the person in charge of implementation and what they are responsible for:

Anne Deacon, Human Services Manager, will provide oversight of contract and program management activities and will recruit and hire the staff positions.

6. Funding Source:

Local Document Recording Fees
Supplemental Budget Request

Non-Departmental

Supp# ID: 2595  Fund: 135  Cost Center: 135100  Originator: M Caldwell

Expenditure Type: One-Time  Year: 2018  Add'l FTE  Add'l Space  Priority: 1

Name of Request: Trial Crt Imp Fund Trf to support Crim Justice AV

X  4/27/18

Department Head Signature (Required on Hard Copy Submission)  Date

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
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<tr>
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</table>

Request Total: $205,000

1a. Description of request:
Companion supplemental to help fund Criminal Justice Audio Visual Systems upgrade (Supplemental #2594)

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:
Trial Court Improvement Fund

Wednesday, April 25, 2018
MEMORANDUM

TO: Jack Louws, Executive
FROM: Michael McFarlane
DATE: April 13th, 2018
RE: Budget Supplementals 2584, 2586, 2589

Please find three budget supplementals for your review and approval.

Supplemental 2584: This supplemental requests $2,000 of funding to repair and renovate several small pedestrian bridges on the trail at the Stimpson Family Nature Reserve. Funding for this project is being provided through a donation received from the Rotary Club of Bellingham.

Supplemental 2586: This request is to repair the main road in the Lookout Mountain Forest Preserve. This road began to experience a failure in early February when a crack was discovered. This road services not only park users, but is the power corridor and access to the communication tower sites on top of the mountain. A steep unconsolidated slope, buried power cable, residential proximity and the need to accommodate larger vehicles are challenges addressed in this project. Project costs are estimated to not exceed $100,000 and REET II funding is being requested.

Supplemental 2589: Funding is requested for replacement of the roof and HVAC system at the indoor range at the Plantation Rifle Range. This project was placed on hold several years ago pending grant funding and a design modification which included the roof replacement. Two FARR funding grants in the amount of $294,400 have been procured from the State. An additional $541,000 is being requested from REET I.
1a. Description of request:
This project repairs a slope and road failure on the LM-2000 Road in Lookout Mountain Forest Preserve.

1b. Primary customers:
The LM-2000 Road is a mainline forest road within the Lookout Mountain Forest Preserve. The road, provides access to communications towers within, or adjacent to, Lookout Mountain Forest Preserve; provides non-motorized public access to existing and planned trails; provides Emergency Services access for EMS and fire response; and provides Whatcom County Parks & Recreation staff access for maintenance, monitoring, and patrolling of county owned lands and infrastructure.

As such, primary customers are recreational visitors to Lookout Mountain Forest Preserve, easement and communications site lease holders, and county and emergency services providers.

2. Problem to be solved:
About February 2, 2018, department staff reported a previously unidentified crack in the LM-2000 Road within Lookout Mountain Forest Preserve. The crack was located in a spot, above a private residence, where the side slope is inclined at approximately 45 degrees or steeper with an estimated height of 65 feet above the residence.

On February 5, 2018 staff and a representative from a geotechnical firm, GeoEngineers, visited the site. The crack had continued to move and expand, and additional down settling was observed. Out of concern for the residence below, and on recommendation of GeoEngineers, the situation was deemed an emergency.

On February 6, 2018, working with GeoEngineers and a contracted heavy equipment operator, Parks excavated overburden and afforded temporary site stabilization.

Since that time, Parks has been working with GeoEngineers to develop an approach to slope stabilization and road reconstruction. The project is complicated by an underground high voltage powerline which services cell towers further up the mountain. This power line lies below the road and requires relocation prior to slope stabilization and road repairs efforts are implemented.

Work completed to date provided temporary stabilization of the slope and allowed Parks to reopen the road to non-motorized public use and for light trucks to transit the site. Heavy duty trucks and equipment are prohibited on the road until long-term slope stabilization and road repairs are effected. Several projects are planned for this summer above the slope failure point; most of which are to be implemented.
Supplemental Budget Request

Parks & Recreation

Status: Pending

<table>
<thead>
<tr>
<th>Suppl ID</th>
<th>Fund 3E+0</th>
<th>Cost Center 18002</th>
<th>Originator: Christ Thomsen</th>
</tr>
</thead>
</table>

by easement and lease holders. These projects have been in planning phases for years. Watershed work restrictions limit their work window to June 1 to September 30 annually. Heavy trucks and equipment are required to implement these projects. Further, communications sites owners and lessees have an ongoing need for access to maintain, monitor, and repair equipment.

3a. Options / Advantages:
While temporary repairs have been implemented long-term repairs are necessary to stabilize the slope and to reopen the roadway to heavy truck and equipment use. The problem has been analyzed by Department staff and consulting geotechnical engineers from GeoEngineers. GeoEngineers presented recommendations for uphill slope stabilization, downslope retention, and roadway repairs. Whatcom County Public Works engineering staff collaborated in review of GeoEngineers' recommendations. Further, Puget Sound Energy presented two alternate plans to address relocating the power line; one plan is the preferred approach and the second plan is a backup plan in the event the preferred approach isn't successful.

The recommendations include excavating the existing road prism, pushing the road alignment into the uphill side of the road, relocating the underground power line, constructing an uphill retaining wall, installing a rock-filled welded wire basket wall on the downslope side, and reconstructing the roadway using geogrid materials to tie the roadway and retaining walls together while more evenly distributing vehicle and equipment loading within the road prism.

Other alternatives considered included relocating the roadway to avoid the area or abandoning the road. Relocation was dismissed as impractical due to topography and cost. Abandonment of the roadway was dismissed as impractical because of operational needs for the roadway including access to existing communications sites, public access, and department staff and emergency services access needs.

3b. Cost savings:
This project does not provide maintenance and operations cost savings.

Parks is working with easement holders and lessees on cost sharing for repair costs. Any costs covered or recovered will be applied to the county as reimbursement for this project.

4a. Outcomes:
Outcomes expected include slope stabilization and road repairs being completed per design specifications as soon as practicable and the road is returned to full service.

4b. Measures:
The slope is stabilized and the road is returned to full service.

GeoEngineers is contracted to provide construction services to monitor work to ensure compliance with design standards and specifications.

5a. Other Departments/Agencies:
Planning and Development Services is responsible for issuing permits associated with this project. Parks recently applied for a building and land disturbance permit for this project.

5b. Name the person in charge of implementation and what they are responsible for:
Planning and Development Services permitting staff.

6. Funding Source:
REET II

Monday, April 16, 2018

Rpt: Rpt Suppl Regular
Location: LM-2000 Road above Shetland Ct.
Problem:

- Road and slope failure
  - Crack in roadway
  - Down-settling of overburden
- Safety risks
  - Public
    - Road users
  - Private property
  - Residence
    - 65-feet below
- Active road use
  - Easement holders
  - Lessees
  - Public
  - Department staff
  - EMS staff
- Planned projects
  schedules at risk

Crack and Down-settling of Overburden

Jobsite

Excavated Overburden
# Lookout Mountain Slope Stabilization & Road Repair

## Cost Estimate

<table>
<thead>
<tr>
<th>Task / Item</th>
<th>Description</th>
<th>Low Cost Estimate</th>
<th>High Cost Estimate</th>
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<td><strong>Total</strong></td>
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MEMORANDUM

TO: Jack Louws, Executive
FROM: Michael McFarlane
DATE: April 13th, 2018
RE: Budget Supplementals 2584, 2586, 2589

Please find three budget supplementals for your review and approval.

Supplemental 2584: This supplemental requests $2,000 of funding to repair and renovate several small pedestrian bridges on the trail at the Stimpson Family Nature Reserve. Funding for this project is being provided through a donation received from the Rotary Club of Bellingham.

Supplemental 2586: This request is to repair the main road in the Lookout Mountain Forest Preserve. This road began to experience a failure in early February when a crack was discovered. This road services not only park users, but is the power corridor and access to the communication tower sites on top of the mountain. A steep unconsolidated slope, buried power cable, residential proximity and the need to accommodate larger vehicles are challenges addressed in this project. Project costs are estimated to not exceed $100,000 and REET II funding is being requested.

Supplemental 2589: Funding is requested for replacement of the roof and HVAC system at the indoor range at the Plantation Rifle Range. This project was placed on hold several years ago pending grant funding and a design modification which included the roof replacement. Two FARR funding grants in the amount of $294,400 have been procured from the State. An additional $541,000 is being requested from REET I.
Supplemental Budget Request

Status: Pending

Parks & Recreation

Suppl ID # 2589  Fund 3E0  Cost Center 17001  Originator: Christ Thomsen

Expenditure Type: One-Time  Year 2 2018  Add'l FTE  Add'l Space  Priority 1

Name of Request: Plantation Indoor Range HVAC and Roof Replacement

Department Head Signature (Required on Hard Copy Submission)  Date 4-16-18

Costs:

<table>
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<tr>
<td>Request Total</td>
<td></td>
<td>$541,600</td>
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</tbody>
</table>

1a. Description of request:
This project replaces the Plantation Indoor Range ventilation system with a modern system designed to accommodate today’s environmental health requirements and the shooting public’s needs. It also provides for the replacement of the indoor range roof.

1b. Primary customers:
Visitors to the Plantation Range and contracted Law Enforcement and education agencies are the primary customers of this project. In 2017, the Range served over 16,200 recreational shooters and was host to over 230 law enforcement and education agency training days.

2. Problem to be solved:
In the 2015/2016 biennium Whatcom County provided funding for replacement of Plantation Rifle Range HVAC (ASR # 2015-5355). These funds were matched with a grant from the Washington State Recreation and Conservation Office (RCO) (project # 14-1127D). The project scope was to remove and replace the existing HVAC system in the Indoor Range. The system filters airborne lead and other particulates from the indoor shooting range as well as providing heating for the indoor range. The existing HVAC system was installed in 1983; making it 35 years old. The system has had frequent breakdowns and is inefficient. The range cannot be used without a functioning HVAC system.

During the design phase of that project, it was discovered that the roof would need to be replaced to support installation of the new HVAC unit and associated ducting structure. The Indoor Range roof was last replaced in 1995. Membrane roofing of the type installed has a typical life expectancy of 15 years. With care and maintenance, this roof has lasted 23 years to date. Recently, the roof has begun to show its age through leaks and other problems. In addition to supporting HVAC retrofit activities, roof replacement is necessary to protect the integrity of the building envelope. Roughly 3100 square of asbestos containing roof material will be abated as part of the roof replacement.

In the 2017/2018 biennium Whatcom County provided additional funding for the project (ASR # 2017-5637). These funds were again matched by a grant from the RCO (project # 16-2784).

Unfortunately, the Washington State Legislature did not fund capital programs when they adopted the 2017/2019 state budget. This meant that RCO suspended all existing capital project contracts and did not fund new projects. Consequently, Parks did not move forward with replacing the Plantation Indoor Range HVAC system and roof. By the end of 2017, all Departmental spending authority expired.

Eventually, the Washington State Legislature passed funding for capital programs and RCO reinstated projects funding.

Monday, April 16, 2018
Supplemental Budget Request

Parks & Recreation

Status: Pending

<table>
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<tr>
<th>Suppl ID #</th>
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<th>Cost Center</th>
<th>Originator</th>
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<tbody>
<tr>
<td>2589</td>
<td>3E+0</td>
<td>17001</td>
<td>Christ Thomsen</td>
</tr>
</tbody>
</table>

Costs for this project have increased since funding was initially requested. Cost increases are due to a number of reasons, including:

1) Lead and asbestos abatement costs. Lead abatement was anticipated but not to the scale required to implement project work. Asbestos abatement costs were unforeseen. The roof was last replaced in 1983. It was expected that all asbestos roofing materials were removed at that time.

2) Retrofitting the existing indoor range building to accommodate the new HVAC system is greater than anticipated due to required structural modifications.

3) The original cost estimate included mostly off the shelf components that aren’t applicable to project conditions.

4) Industry-wide increases in construction costs and the annual effects of inflation.

Design is work is complete to 90% and permit ready plans are in hand. The project, however, lacks sufficient funding through grants alone.

3a. Options / Advantages:
Numerous options have been considered. These options have been distilled into three primary alternatives:

The first is to replace the existing HVAC system and roof. This allows the County to continue to operate the Plantation Indoor Range. This option is the current proposal and preferred as it provides for continuation of an existing service level and preserves county infrastructure.

The second option considered is to replace the roof only and operate the indoor range until the HVAC system fails. At which point, the indoor range would be closed for use. This option was rejected because it reduces service level and fails to adequately maintain existing assets.

The third option is to forego the project work and mothball the indoor range. This option was rejected because it reduces service level and fails to adequately maintain existing assets.

3b. Cost savings:
It is anticipated that there will be a reduction in energy costs due to increased energy efficiency. Energy savings are somewhat difficult to quantify at this time due to the differences in system design and scope.

It is also anticipated there will be cost savings associated with supplies and labor required to maintain the system. Currently, because the HVAC system is roof mounted, two or more employees are required onsite when maintaining or servicing the unit. The new system will be installed at ground level and will require fewer employees during maintenance and service activities. Additionally, the new system includes monitoring equipment that indicates when particular services are required; such as, filter media replacement. This means maintenance moves from a set schedule whether it is needed or not to an on demand system.

4a. Outcomes:
The Plantation Indoor Range HVAC system and roof are replaced by December 15, 2018.

4b. Measures:
Installation of the HVAC system is complete and the roof has been replaced.

Construction services are to be provided through contract. These services monitor asbestos and lead abatement activities to certify abatement is complete, monitor construction activities to provide quality assurance, and to certify that the HVAC system functions to performance specifications.

5a. Other Departments/Agencies:
Whatcom County Planning and Development Services is responsible for issuing permits for this project.

Monday, April 16, 2018
## Supplemental Budget Request

### Parks & Recreation

<table>
<thead>
<tr>
<th>Suppl ID #</th>
<th>Fund</th>
<th>Cost Center</th>
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<tbody>
<tr>
<td>2589</td>
<td>3E+0</td>
<td>17001</td>
<td>Christ Thomsen</td>
</tr>
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</table>

#### Status: Pending

### 5b. Name the person in charge of implementation and what they are responsible for:

- Planning and Development Services permitting staff as assigned to the project by Planning and Development Services.

### 6. Funding Source:

- REET I funds: $541,600.
- Washington State Recreation and Conservation Office grant funds: $294,400.
Plantation Indoor Range HVAC and Roof Replacement

Location

[Map with labeled areas: Trap Range, Rifle Range, Pistol Range, Indoor Pistol Range, Roof / HVAC Replacement Project Area]
Problem:

- 35-year old HVAC system
- Unreliable
- Does not meet today's operational standards
- Air flow
- Filtration
- Energy
- Functional HVAC system required for range operations
Problem:

- **Roof**
  - Severely degraded materials
  - Asbestos and lead contamination of roof envelope
  - Insufficient R-value
  - Leaks

- **Structural**
  - Modifications required for HVAC retrofit
  - Envelope compromised via roof leaks

---

WHATCOM COUNTY PARKS & RECREATION

Budget Supplemental: 2589
Problem:

- Employee and public safety
  - Airborne lead and particulates
  - Access to HVAC system for maintenance

 existing: Roof Mounted HVAC System
 existing: Airflow
 desired: Laminar Airflow
Plantation Indoor Range HVAC and Roof Replacement

HVAC Replacement Proposal
Plantation Indoor Range HVAC and Roof Replacement

HVAC Replacement Proposal
<table>
<thead>
<tr>
<th>Task / Item Description</th>
<th>Cost Estimate</th>
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<tbody>
<tr>
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<td>RCO Grants</td>
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<td>Request Total</td>
<td>$541,600</td>
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</table>
MEMO TO: Jack Louws
FROM: Rob Ney, Project & Operations Manager
DATE: April 20, 2018
RE: Supplemental Budget Request – DDC Controls Reallocation

- **Background and Purpose**
  This supplemental budget request is to re-establish the contingency funding originally provided in ASR #2017-5498. The original budget established in 2017 for the Siemens Direct Digital Controls (DDC) project included the contractors cost and a contingency for unforeseen circumstances. The contract amount was carried over to the 2018 budget, but not the amount allocated for contingency which was returned to the original funding source. Due to unforeseen circumstances associated with the project, Facilities would like to re-establish the contingency funds to cover these expenses. There is no net increase over the original 2017 request.

- **Funding Amount and Source**
  Funding amount needed for this supplement budget request is $11,500. This project was originally approved in the Facilities Budget ASR #2017-5498 in the amount of $336,063.00 account #3260517002. REET 1 funded the original budget for this project.

- **Differences from Previous Contract**
  This project is a one-time agreement.

Please contact Rob Ney at extension 5387, if you have any questions or concerns regarding the terms of this agreement.

Enclosures
Supplemental Budget Request

Status: Pending

<table>
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<tr>
<th>Administrative Services</th>
<th>Facilities Management</th>
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<td>Suppl ID #: 2390</td>
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<td>Fund: 326</td>
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<td>Originator: Rob Ney</td>
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</tbody>
</table>
| Expenditure Type: One-Time | Year: 2017 | Add'l FTE □ | Add'l Space □ | Priority: 1
| Name of Request: DDC Controls Reallocation |

Department Head Signature (Required on Hard Copy Submission) 4/24/18

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1a. Description of request:
ASR #2017-5498 was approved for Upgrading the Siemens Direct Digital Control (DDC) System in various County locations. The DDC system controls the Heating Ventilation Air Conditioning (HVAC) system. This was a one-time authorization of funds and was not included in a Project Based Budget. Therefore, the funds not allocated in the original contract would sunset at the end of the 2017 calendar year. Facilities had a contingency built into the 2017 budget which was not utilized in 2017 and were returned to the original fund. Due to unforeseen circumstances associated with the project, Facilities would like to re-establish the contingency funds to cover these expenses. There is a no net increase in funds requested (above the 2017 request).

1b. Primary customers:
All Employees & Citizens who use the Courthouse, NW Annex, Civic Center, Forest Street, Central Shop & Main Jail.

2. Problem to be solved:
Because this work was not covered in a Project Based Budget, the contingency funds/remaining budget were not continued into 2018. The project has identified unanticipated work that was not known at the time of the contract. Had this work progressed in 2017, the contingency funds included in the 2017 budget request would have covered these costs.

3a. Options / Advantages:
Using the Facilities Budget for these unforeseen, but this could potentially run our line item short for Facilities.
This was originally funded through the REET 1 fund and should continue to be funded from REET 1

3b. Cost savings:
The DDC System allows for better control over our HVAC system, this gives us energy conservation and environmental control within out buildings for the public and our employees.

4a. Outcomes:
Once the system is in place and the building & citizens will have a functioning system. This project is currently underway.

4b. Measures:
When the new functioning system is up and running properly.
When the new system is running we will continue to have lower heating and cooling costs.

5a. Other Departments/Agencies:
None

5b. Name the person in charge of implementation and what they are responsible for:
Rob Ney

Friday, April 20, 2018
Supplemental Budget Request

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<td><strong>Originator:</strong> Rob Ney</td>
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6. **Funding Source:**

REET 1
MEMO TO: Jack Louws
FROM: Rob Ney, Project & Operations Manager
DATE: April 20, 2018
RE: Supplemental Budget Request – New Construction Coordinator/Project Manager Position in Facilities Management

- **Background and Purpose**
  As identified in the Deputy Executives report on the options for expansion of the Triage Facility, and also in my Supplemental Budget Request for the Facilities Management operations move to Williamson Way, a new position would be requested to manage the proposed Triage Facility construction project. This is the formal request for that new FTE. This position is funded by the different project in which this new employee would be assigned and could include the new Triage Facility, the Courthouse envelope project, the Jail renovations, or another unidentified project. Initially, the position would be primarily funded by the money devoted for the construction of the new Triage facility on Division Street.

- **Specific Request**
  Funding amount needed for this supplement budget request is $63,977.00. This funding includes an annual salary, benefits, and one time purchases such as a computer and office furniture. There are two Supplemental Budget Requests for this request: $8,770 & $55,207.00.

- **Funding Source**
  This position will be funded by the projects the new position will be assigned. Year 1, this position will be primarily funded by the Triage Center budget 374100. Discussions will need to occur each biennium to discuss where the position will be charged to.

Please contact Rob Ney at extension 5387, if you have any questions or concerns regarding the terms of this agreement.

Enclosures
Supplemental Budget Request

Administrative Services

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**Expenditure Type:** Ongoing  **Year:** 2018  **Add'l FTE:** ✔  **Add'l Space:** ✔  **Priority:** 1

**Name of Request:** Construction Coordinator/Project Manager

**Department Head Signature (Required on Hard Copy Submission):**

![Signature]

**Date:** 4/24/18

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**Request Total:** $0

1a. Description of request:

The new position will be assigned to manage large scale construction projects for Facilities Management. The first assignment for this new position will be to coordinate, and be the owner's representative, for the construction of a new Triage Facility on Division Street.

1b. Primary customers:

Any department receiving services from Facilities Management. Year 1, the primary customer will be the Health Department. In the future, this position will work on the Courthouse Exterior Project, the Jail, and possibly Civic Center and 1500 State Street.

2. Problem to be solved:

Professional project management is a necessary skill for ensuring cost effective management of the County's capital project and building maintenance efforts. Effective management of these contracts will save the County money, possibly funding this position through cost savings and efficient management of these projects.

3a. Options / Advantages:

The only other option is to hire a firm to perform this effort. However, a County employee will have the best interests in the County as his primary duties, and will not be conflicted by existing relationships with contractors or sub-contractors. This is the most cost effective way to provide these project management services.

3b. Cost savings:

A County employee will be substantially less than a contracted project manager.

4a. Outcomes:

Efficient and effective construction projects.

4b. Measures:

When we compare the project's final costs to the original contract amount, and take into consideration the...
Supplemental Budget Request

<table>
<thead>
<tr>
<th>Administrative Services</th>
<th>Facilities Management</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Suppl ID #</strong>: 2593</td>
<td><strong>Fund</strong>: 507</td>
</tr>
<tr>
<td></td>
<td><strong>Cost Center</strong>: 50700</td>
</tr>
<tr>
<td><strong>Originator</strong>: Rob Ney</td>
<td></td>
</tr>
</tbody>
</table>

unforeseen issues addressed during the construction project.

5a. **Other Departments/Agencies:**
Success will be measured by delivery of efficient and cost effective projects.
None

5b. **Name the person in charge of implementation and what they are responsible for:**
None; Rob Ney

6. **Funding Source:**
Project Budgets
Supplemental Budget Request

**Administrative Services**

| Supp ID # | Fund 507 | Cost Center 50791 | Originator: Rob Ney |

**Facilities Management**

Expenditure Type: One-Time  Year: 2018  Add'l FTE  Add'l Space  Priority: 1

Name of Request: One-time Cost-Construction Coordinator/Proj Mgr

Department Head Signature: 4/24/18

<table>
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<th>Costs</th>
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<th>Object Description</th>
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<td></td>
<td>6320</td>
<td>Office &amp; Op Supplies</td>
<td>$250</td>
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<tr>
<td></td>
<td>6510</td>
<td>Tools &amp; Equip</td>
<td>$1,500</td>
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<td></td>
<td>6520</td>
<td>Software</td>
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<td>6720</td>
<td>Telephone</td>
<td>$720</td>
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<td></td>
<td>7420</td>
<td>Computer-Capital Outlays</td>
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<td></td>
<td>Request Total</td>
<td></td>
<td>$8,770</td>
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</table>

1a. Description of request:
Companion supplemental to Supplemental ID #2593 for computer, phone and office supplies

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:
Admin Services Fund Balance

Thursday, April 26, 2018
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to:
---|---|---|---|---|---
Originator: | PP | 04/15 | | 05/08 | Introduction
Division Head: | RD | 04/16 | | 05/22 | Finance/Council
Dept. Head: | | | | | 
Prosecutor: | RB | 04/20 | | | 
Purchasing/Budget: | KF | 04/18 | | | 
Executive: | TS | 04/30 | | | 

TITLE OF DOCUMENT:
Establishing the Mental Health and Developmental Disabilities Special Revenue Fund

ATTACHMENTS:

Ordinance Establishing the Mental Health and Developmental Disabilities Special Revenue Fund

SEPA review required? ( ) Yes ( ) NO
SEPA review completed? ( ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes ( ) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Ordinance to establish a Mental Health and Developmental Disabilities Special Revenue Fund to track and account for revenues received through the Washington State levy for people with developmental disabilities or in need of mental health services.

COMMITTEE ACTION:

COUNCIL ACTION:
5/8/2018: Introduced 6-0

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Regina A. Delahunt, Director
DATE: April 26, 2018
SUBJECT: Establishing the Mental Health and Developmental Disabilities Special Revenue Fund

Please find attached an ordinance to create a Mental Health and Developmental Disabilities Special Revenue Fund. This fund will be used to track and account for restricted and committed revenues received through the established Washington State levy for people with developmental disabilities or in need of mental health services in accordance with RCW 71.20.100.

Please call Patty Proctor at x6015 if there are any questions. Thank you.

Encl.
ORDINANCE NO. ________

ESTABLISHING THE MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES SPECIAL REVENUE FUND

WHEREAS, The State of Washington established a tax levy funding additional services for people with developmental disabilities or in need of mental health services. (RCW 71.20.110)

WHEREAS, the Health Department needs a special revenue fund to account for restricted and committed revenues which will be used to fund developmental disability or mental health programs.

WHEREAS, the Health Department needs a separate fund to separately track and account for these revenues until the funds can be properly expended.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a new special revenue fund is hereby established titled the "Mental Health and Developmental Disabilities Fund". This new fund shall be dedicated to tracking restricted and committed revenues for mental health and developmental disabilities programs according to RCW 71.20.100 and County Council requirements.

ADOPTED this _____ day of __________, 20___.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Jack Louws, County Executive

( ) Approved ( ) Denied

Date Signed: ____________________
**TITLE OF DOCUMENT:** An ordinance ordering the closure of the Potter Road - South Fork Bridge No. 148 Replacement Project Fund 342.

**ATTACHMENTS:** Proposed ordinance and memo.

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This ordinance orders the closure of the Potter Road - South Fork Bridge No. 148 Replacement Project Fund 342.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

5/8/2018: Introduced 6-0

Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
TO: The Honorable Jack Louws, Whatcom County Executive and Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Public Works Director

FROM: Randy Rydel, Financial Services Manager

DATE: April 26, 2018

RE: Ordinance to close the Potter Road - South Fork Bridge No. 148 Replacement Project Fund 342

Please find attached for your review and approval an ordinance to close the Potter Road - South Fork Bridge No. 148 Replacement Project Fund 342 and to transfer the remaining cash balance of approximately $1,157,316 back into the Road Fund 108. This project received additional funding of $1,000,000 from the Nooksack Indian Tribe which substantially reduced the amount due from the Road Fund. The project is complete and the project fund is no longer needed.

Please contact Randy Rydel at extension 6217 if you have any questions or concerns regarding this project fund closure.
ORDINANCE NO. ______

CLOSING THE POTTER ROAD – SOUTH FORK BRIDGE NO. 148 REPLACEMENT PROJECT FUND 342

WHEREAS, on November 20, 2012, Ordinance 2012-052 created the Potter Road - South Fork Bridge No. 148 Replacement Project Fund 342 and funded the project; and,

WHEREAS, the project has now been completed; and,

WHEREAS, the project fund is no longer needed; and,

WHEREAS, the Road Fund contributed $1,900,000 towards the project; and,

WHEREAS, additional funding of $1,000,000 from the Nooksack Indian Tribe significantly reduced the actual Road Fund contribution; and,

WHEREAS, the current cash balance in the project fund is approximately $1,157,316; and,

WHEREAS, remaining cash in the fund should be returned to the Road Fund,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Potter Road - South Fork Bridge No. 148 Replacement Project Fund 342 be dissolved and its remaining cash balance returned to the Road Fund.

ADOPTED this ___ day of __________, 2018.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Daniel L. Gibson
Civil Deputy Prosecutor

Jack Louws
County Executive

( ) Approved ( ) Denied

Date Signed: ____________________

## ATTACHMENTS: Proposed ordinance and memo.

### SEPA review required?
- ( ) Yes
- (X) NO

### SEPA review completed?
- ( ) Yes
- (X) NO

### Should Clerk schedule a hearing?
- ( ) Yes
- (X) NO

### Requested Date:

### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This ordinance orders the closure of the 2015 County Roadway Safety Program Fund 355.

## COMMITTEE ACTION:

## COUNCIL ACTION:
- 5/8/2018: Introduced 6-0

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Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
TO: The Honorable Jack Louws, Whatcom County Executive and Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Public Works Director

FROM: Randy Rydel, Financial Services Manager

DATE: April 26, 2018

RE: Ordinance to close the 2015 County Roadway Safety Program Fund 355

Please find attached for your review and approval an ordinance to close the 2015 County Roadway Safety Program Fund 355 and to transfer the remaining cash balance of approximately $54,817 back into the Road Fund 108. The project is complete and the project fund is no longer needed.

Please contact Randy Rydel at extension 6217 if you have any questions or concerns regarding this project fund closure.
ORDINANCE NO. _______

CLOSING the 2015 County Roadway Safety Program Fund 355

WHEREAS, on November 25, 2014, Ordinance 2014-071 created the 2015 County Roadway Safety Program Fund 355 and funded the project; and,

WHEREAS, the project has now been completed; and,

WHEREAS, the project fund is no longer needed; and,

WHEREAS, the Road Fund contributed $70,000 towards the project; and,

WHEREAS, the current cash balance in the project fund is approximately $54,817; and,

WHEREAS, remaining cash in the fund should be returned to the Road Fund;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2015 County Roadway Safety Program Fund 355 be dissolved and its remaining cash balance returned to the Road Fund.

ADOPTED this ___ day of ________, 2018.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

Daniel L. Gibson
Civil Deputy Prosecutor

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Jack Louws
County Executive

(  ) Approved (  ) Denied

Date Signed: ____________________________
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator: Randy Rydel</td>
<td>RR</td>
<td>4/26/18</td>
<td></td>
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<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5/22/18</td>
</tr>
<tr>
<td>Dept. Head: Jon Hutchings</td>
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<tr>
<td>Prosecutor: Dan Gibson</td>
<td></td>
<td>04/27/18</td>
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<tr>
<td>Purchasing/Budget: Brad Bennet</td>
<td>BB</td>
<td>4/26/18</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive: Jack Lowes</td>
<td>TL</td>
<td>4/30/18</td>
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<td></td>
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</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:** Ordinance ordering the closure of the Cedar Hills/Euclid Storm Water Improvements Fund 367.

**ATTACHMENTS:** Proposed ordinance and memo.

**SEPA review required?**

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

**SEPA review completed?**

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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</thead>
<tbody>
<tr>
<td>X</td>
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</table>

**Should Clerk schedule a hearing?**

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

**Requested Date:**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This ordinance orders the closure of the Cedar Hills/Euclid Storm Water Improvements Fund 367.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

5/8/2018: Introduced 6-0

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

*Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).*
TO: The Honorable Jack Louws, Whatcom County Executive and Honorable Members of the Whatcom County Council

THROUGH: Jon Hutchings, Public Works Director

FROM: Randy Rydel, Financial Services Manager

DATE: April 26, 2018

RE: Ordinance to close the Cedar Hills/Euclid Storm Water Improvements Fund 367

Please find attached for your review and approval an ordinance to close the Cedar Hills/Euclid Storm Water Improvements Fund 367 and to transfer the remaining cash balance of approximately $414 back into the REET II Fund 324. The project is complete and the project fund is no longer needed.

Please contact Randy Rydel at extension 6217 if you have any questions or concerns regarding this project fund closure.
ORDINANCE NO. ________

CLOSING CEDAR HILLS/EUCLID STORM WATER IMPROVEMENTS PROJECT FUND 367

WHEREAS, on November 25, 2014, Ordinance 2014-083 created the Cedar Hills/Euclid Storm Water Improvements Fund and funded the project; and,

WHEREAS, the project has now been completed; and,

WHEREAS, the project fund is no longer needed; and,

WHEREAS, the REET II Fund contributed $955,000 towards the project; and,

WHEREAS, the current cash balance in the project fund is approximately $414; and,

WHEREAS, remaining cash in the fund should be returned to the REET II Fund,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Cedar Hills/Euclid Storm Water Improvements Fund be dissolved and its remaining cash balance returned to the REET II Fund.

ADOPTED this ___ day of ________, 2018.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council
Rud Browne, Council Chair

APPROVED AS TO FORM: WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Daniel L. Gibson
Civil Deputy Prosecutor
Jack Louws
County Executive

( ) Approved ( ) Denied

Date Signed: __________________________
TITLE OF DOCUMENT: Approval to Purchase Replacement Lowboy Trailer

ATTACHMENTS: Memos from Finance and Public Works

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Public Works Equipment Services is requesting approval to purchase a replacement lowboy trailer using the Washington State Contract #00816 (expires 12/31/2024). The vendor is Papé Machinery, Inc., located in Tacoma, WA. The total cost is $89,526.76.

Council approval is sought on this purchase because the cost exceeds the approved budget of $75,000.00 by more than 10 percent. Adequate unspent budget authority exists in the current ER&R budget for the overage.

COMMITTEE ACTION:
5/8/2018: Held in Committee

COUNCIL ACTION:
5/8/2018: Held in Committee

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
DATE: April 25, 2018

TO: Jack Louws, County Executive

FROM: Brad Bennett, AS Finance Manager

SUBJECT: Approval to Purchase Replacement Lowboy Trailer

• Background & Purpose

Public Works Equipment Services requests approval to purchase a 2018 TK102HDG Advantage Plus Hydraulic Detachable Lowboy Trailer, using Washington State Contract #00816 (expires 12/31/2024). This replacement will be used by the Maintenance and Operations Division as part of the road maintenance program.

The vendor is Papé Machinery, Inc., located in Tacoma, Washington. The total price for this purchase is $89,526.76, including sales tax.

• Funding

This is a planned replacement, and $75,000.00 in funds was approved in the current ER&R budget. Council approval is sought on this purchase because the cost exceeds the approved budget by more than 10 percent. Adequate unspent capital budget authority exists in the current ER&R budget for the overage. I concur with this request.

[Signature]
AS Finance Manager

Approved as recommended:

________________________________
County Executive

Date of Council Action

74
MEMORANDUM

To: Brad Bennett, AS Finance Manager

Through: Jon Hutchings, Public Works Director

From: Eric L. Schlehuber, PW Equipment Services Manager

Date: April 13, 2018

Re: Purchase of one (1) 2018 TK102HDG Advantage Plus Hydraulic Detachable Lowboy Trailer (WA State Contract #00816: Trailers, Various Sizes)

• Requested Action
After researching costs of a 2018 lowboy trailer, I am requesting Executive and Council approval to purchase one (1) 2018 TK102HDG Advantage Plus hydraulic detachable lowboy trailer from the Washington State Bid Procurement List (Contract #00816: Trailers, Various Sizes). The current state contract is for the period of January 9, 2017 through December 31, 2024. This lowboy trailer will be used to replace the following unit, which meets the 15 year capital equipment replacement criteria for trailers:

<table>
<thead>
<tr>
<th>DEPARTMENT</th>
<th>REPLACE UNIT</th>
<th>YEAR / MAKE / MODEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>M&amp;O</td>
<td>307</td>
<td>1992 Etnyre Lowboy Trailer</td>
</tr>
</tbody>
</table>

• Background and Purpose
This unit was approved for replacement in the 2017-2018 Equipment Rental and Revolving capital equipment budget to be used by Whatcom County Public Works. The Maintenance & Operations Division will use this lowboy trailer regularly in the performance of county business.

<table>
<thead>
<tr>
<th>VENDOR</th>
<th>YEAR / MAKE / MODEL</th>
<th>QTY</th>
<th>PRICE EACH</th>
<th>SALES TAX TOTAL (8.7%)</th>
<th>EXTENDED TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pape Machinery, Inc.</td>
<td>2018 TK102HDG Advantage Plus Hydraulic Detachable Lowboy Trailer</td>
<td>1</td>
<td>$82,361.33</td>
<td>$7,165.43</td>
<td>$89,526.76</td>
</tr>
</tbody>
</table>

• Funding Amount and Source
This replacement was budgeted during the 2017-2018 budget process in the amount of $75,000.00 (10% allowance of $85,500.00). As this award is above the 10% allowance and there is adequate unspent capital budget authority for this overage, I am requesting Executive and Council approval to purchase this unit from Pape Machinery, Inc. of Tacoma, WA for the price of $82,361.33, plus 8.7% sales tax of $7,165.43 for a total amount of $89,526.76.

• Recommended Action
Please approve this purchase and forward to the County Executive and County Council for approval at the May 8, 2018 County Council Meeting. Please contact Eric L. Schlehuber at extension 6405 if you have any questions or concerns.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<tr>
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<td>3/2/18</td>
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<td>Executive:</td>
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<td>5/14/18</td>
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**TITLE OF DOCUMENT:**
Contract between Whatcom County and Northwest Youth Services

**ATTACHMENTS:**
1. Memo to County Executive
2. Contract Information Sheet
3. 2 Originals of Amendment

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes (X) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes (X) NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes ( ) NO</td>
<td>Requested Date:</td>
<td></td>
</tr>
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</table>

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

The purpose of this contract is to provide case management and supportive services to those individuals receiving rental subsidies through the Whatcom Homeless Service Center in order to improve housing stability and reduce homelessness in Whatcom County. This amendment adds additional funding for rental assistance to help support youth in the Transitional Living Program at Francis Place.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
</tr>
</thead>
</table>

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Enclosed are two (2) originals of a contract amendment between Whatcom County and Northwest Youth Services for your review and signature.

- **Background and Purpose**
  The purpose of this contract is to provide case management and supportive services to those individuals referred by the Whatcom Homeless Service Center in order to improve housing stability and reduce homelessness in Whatcom County. The purpose of this amendment is to add $36,990 into the budget for rental assistance for up to 10 units of the Transitional Living Program (TLP) for youth age 18-21 years at Francis Place. Remaining rental costs on the TLP units will be funded by a Runaway and Homeless Youth (RHY) Program federal grant received by Northwest Youth Services. Francis Place is a 42-unit permanent supportive housing project managed and operated by Catholic Community Services and Catholic Housing Services (CHS). Until April 1, 2018, CHS accepted partial rent payments by the RHY Program for TLP units. Additional rent assistance provided by the County will ensure the TLP program can be continued in Francis Place with sufficient rent reimbursement to CHS. This in turn ensures continuation of the RHY grant to NWYS, bringing in over $200,000 to our community to serve youth at risk of or experiencing homelessness in Whatcom County.

- **Funding Amount and Source**
  Funding for this contract, in an amount not to exceed $239,821 during this contract period (1/1/2018 – 12/31/2018), is local document recording fees, mental health millage and the Behavioral Health Program Fund. These funds are included in the 2018 budget. Council approval is required because this amendment adds more than 10% to the approved contract total.

Please contact Barbara Johnson-Vinna at extension #6046 if you have any questions regarding this agreement.

Encl.
# WHATCOM COUNTY CONTRACT INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division/Program: (i.e. Dept. Division and Program)</td>
<td>8550 Human Services / 855040 Housing Program</td>
</tr>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Barbara Johnson-Vinna</td>
</tr>
<tr>
<td>Contractor’s / Agency Name:</td>
<td>Northwest Youth Services</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this a New Contract?</th>
<th>Yes ☒ No ☐</th>
</tr>
</thead>
<tbody>
<tr>
<td>If not, is this an Amendment or Renewal to an Existing Contract?</td>
<td>Yes ☐ No ☒</td>
</tr>
<tr>
<td>Original Contract #:</td>
<td>201611017</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Does contract require Council Approval?</th>
<th>Yes ☒ No ☐</th>
</tr>
</thead>
<tbody>
<tr>
<td>If No, include WCC: (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this a grant agreement?</th>
<th>Yes ☐ No ☒</th>
</tr>
</thead>
<tbody>
<tr>
<td>If yes, grantor agency contract number(s):</td>
<td>CFDA#:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this contract grant funded?</th>
<th>Yes ☐ No ☒</th>
</tr>
</thead>
<tbody>
<tr>
<td>If yes, Whatcom County grant contract number(s):</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this contract the result of a RFP or Bid process?</th>
<th>Yes ☒ No ☐</th>
</tr>
</thead>
<tbody>
<tr>
<td>If yes, RFP and Bid number(s):</td>
<td>16-47</td>
</tr>
<tr>
<td>Contract:</td>
<td>122200 / 124100</td>
</tr>
<tr>
<td>Cost Center:</td>
<td>671300</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this agreement excluded from E-Verify?</th>
<th>No ☒ Yes ☐</th>
</tr>
</thead>
<tbody>
<tr>
<td>If no, include Attachment D Contractor Declaration form.</td>
<td></td>
</tr>
</tbody>
</table>

If YES, indicate exclusion(s) below:
- ☐ Professional services agreement for certified/licensed professional.
- ☐ Contract work is for less than $100,000.
- ☐ Contract work is for less than 120 days.
- ☐ Interlocal Agreement (between Governments).
- ☐ Contract for Commercial off the shelf items (COTS).
- ☐ Work related subcontract less than $25,000.
- ☐ Public Works - Local Agency/Federally Funded FHWA.

<table>
<thead>
<tr>
<th>Contract Amount: (sum of original contract amount and any prior amendments):</th>
<th>$ 405,662</th>
</tr>
</thead>
<tbody>
<tr>
<td>This Amendment Amount:</td>
<td>$ 36,990</td>
</tr>
<tr>
<td>Total Amended Amount:</td>
<td>$ 442,652</td>
</tr>
</tbody>
</table>

Council approval required for: all property leases, contracts or bid awards **exceeding $40,000**, and professional service contract amendments that have an increase greater than $10,000 or 10% of contract amount, whichever is greater, **except when:**
1. Exercising an option contained in a contract previously approved by the council.
2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.
3. Bid or award is for supplies.
4. Equipment is included in Exhibit "B" of the Budget Ordinance.
5. Contract is for manufacturer’s technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

**Summary of Scope:** The purpose of this contract is to provide case management and supportive services to those individuals receiving rental subsidies through WHSC in order to improve housing stability and reduce homelessness in Whatcom County. This amendment adds additional funding for rental assistance to help support youth in the 10-unit Transitional Living Program at Francis Place.

<table>
<thead>
<tr>
<th>Term of Contract:</th>
<th>1 Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expiration Date:</td>
<td>12/31/2018</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td></td>
<td>2. Attorney signoff:</td>
</tr>
<tr>
<td></td>
<td>3. AS Finance reviewed:</td>
</tr>
<tr>
<td></td>
<td>4. IT reviewed (if IT related):</td>
</tr>
<tr>
<td></td>
<td>5. Contractor signed:</td>
</tr>
<tr>
<td></td>
<td>6. Submitted to Exec.:</td>
</tr>
<tr>
<td></td>
<td>7. Council approved (if necessary):</td>
</tr>
<tr>
<td></td>
<td>8. Executive signed:</td>
</tr>
<tr>
<td></td>
<td>9. Original to Council:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Date: 03/02/2018</td>
<td></td>
</tr>
<tr>
<td>Date: 3-4-18</td>
<td></td>
</tr>
<tr>
<td>Date: 5-17-18</td>
<td></td>
</tr>
<tr>
<td>Date: 5-26-18</td>
<td></td>
</tr>
<tr>
<td>Date: 5-8-18</td>
<td></td>
</tr>
<tr>
<td>Date:</td>
<td></td>
</tr>
</tbody>
</table>

78
WHATCOM COUNTY HEALTH DEPARTMENT CONTRACT EXTENSION

Whatcom County # 201611017

PARTIES:
Whatcom County
Whatcom County Courthouse
311 Grand Avenue
Bellingham, WA 98225

AMENDMENT NUMBER: 2

CONTRACT PERIODS:
Original: 01/01/2017 – 12/31/2017
Amendment #1: 01/01/2018 – 12/31/2018
Amendment #2: 01/01/2018 – 12/31/2018

AND CONTRACTOR:
Northwest Youth Services
1020 N State Street
Bellingham, WA 98225

THE CONTRACT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY EXTENDED AS SET FORTH IN THE DESCRIPTION OF THE EXTENSION BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

=================================================================================================

DESCRIPTION OF EXTENSION:

1. Add definition of Transitional Living Program (TLP) to Section II. Definitions. Add TLP rental assistance services to Section III. Statement of Work. Add the requirement to report occupancy rates up to 10 TLP units funded by this contract to Section VI. Reporting Requirements. A revised Exhibit A is attached.

2. Increase the total contract budget by $36,990 to fund the rental assistance for up to 10 units at Francis Place for youth between the ages of 18 – 21 who are eligible for support under a Runaway and Homeless Youth (RHY) program.

3. Funding for this contract period (01/01/2018 – 12/31/2018) is not to exceed $239,821.

4. Funding for the total contract period (01/01/2017 – 12/31/2018) is not to exceed $442,652.

5. All other terms and conditions remain unchanged.

6. The effective start date of the amendment is 04/01/2018.
ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT. ALL PARTIES IDENTIFIED AS AFFECTED BY THIS EXTENSION HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS EXTENSION. Signature is required below.

=====================================================================

APPROVAL AS TO PROGRAM:  
Anne Deacon, Human Services Manager 5/2/18

DEPARTMENT HEAD APPROVAL:  
Regina A. Delahunt, Health Department Director 5/3/18

APPROVAL AS TO FORM:  
Royce Buckingham, Civil Deputy Prosecuting Attorney 5/4/18

FOR THE CONTRACTOR:

Contractor Signature:  
Print Name and Title: Director 4/20/18

STATE OF WASHINGTON)  
COUNTY OF WHATCOM 

On this 26 day of APRIL, 2018, before me personally appeared  
Richard Barnes, Executive Director  
and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Jennifer L. Hawes  
NOTARY PUBLIC in and for the State of Washington  
Residing at BELLINGHAM, WA
My Commission expires: 11/12/18

FOR WHATCOM COUNTY:

Jack Louws, County Executive  

STATE OF WASHINGTON)  
COUNTY OF WHATCOM 

On this _____ day of ___________________________ 2018, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

____________________________________  
NOTARY PUBLIC in and for the State of Washington,  
Residing at Bellingham.
My Commission expires: ___________________________
I. **Background**

Whatcom County's Plan to End homelessness identifies youth as a population impacted by homelessness and lists the provision of safe affordable housing with supportive services as a way to reduce and end youth homelessness. Northwest Youth Services (NWYS) is the only non-tribal agency serving youth in Whatcom County offering housing services for homeless youth. At any point in time NWYS has 130 young people awaiting housing and services.

Through this contract NWYS will serve as one of the Whatcom Homeless Service Center (WHSC) partner agencies providing housing case management and will serve as a specialized portal of entry into WHSC housing services for youth. The purpose of this contract is to provide housing case management, the support of a mental health professional, and to coordinate other supportive services for youth receiving rental subsidies through the WHSC and for youth waiting for housing services in order to achieve housing stability and reduce youth homelessness in Whatcom County.

II. **Definitions**

- **Housing Interest Pool (HIP)**: Quasi wait list that serves clients waiting for housing services based on their needs and available resources instead of a first come, first served basis.
- **HMIS**: Washington's Homeless Management Information Services, a database.
- **Permanent Supportive Housing Population**: Chronically homeless individuals/households with significant barriers to permanent housing; will receive deep rent subsidies and intensive housing case management.
- **Whatcom Homeless Service Center (WHSC)**: WHSC programs provide (1) centralized coordinated system of access (2) targeted prevention assistance to reduce the number of households that become homeless, (3) re-housing of those who become homeless, (4) supportive services promoting housing stability and self-sufficiency, and (5) data management and tracking information for people receiving homeless housing services in Whatcom County and according to Washington State Department of Commerce HMIS data collection requirements.
- **Transitional Living Program (TLP)**: The Transitional Living Program is administered through the Family and Youth Services Bureau as a Runaway and Homeless Youth Program. TLP's provide safe and stable living accommodations with supportive services including life skills building, educational opportunities, job attainment services, mental health care, and physical health care. Case managers provide or connect young adults to these services while in TLP to prepare them for self-sufficiency. NWYS serves youth that have experienced homelessness ages 18-21 in the TLP at Francis Place, a permanent supportive housing project with 24-hour staff support.

III. **Statement of Work**

The contractor will provide housing case management services. Housing case management includes activities for the arrangement, coordination, monitoring, and delivery of services related to meeting the housing needs of households and helping them obtain housing stability. Services and activities include: developing, securing, and coordinating services; monitoring and evaluating household progress; assuring that households' rights are protected; developing an individualized housing and service plan, including a path to permanent housing stability subsequent to assistance. Housing case management also includes services or activities designed to assist households in locating, obtaining, and retaining suitable housing such as: tenant counseling, assisting individuals and households to understand leases, securing utilities, making
moving arrangements, representative payee services concerning rent and utilities, and mediation and outreach to property owners related to locating or retaining housing.

In addition, the following types of housing case management services will be included:

**Intake services:** Contractor will provide intake services to youth in Whatcom County seeking housing to collect client information, assess barriers to stable housing, and eligibility for housing programs. Services will be provided to low-income and/or homeless youth residing in Whatcom County. Individuals and households served shall have incomes at or below 50% Area Median Income (AMI).

**Youth Housing Interest Pool (YHIP) services:** Youth housing interest pool case management includes services designed to make youth who are homeless or almost homeless aware of available programs, provide them with a point of access to housing services working collaboratively with the WHSC, and engage with them to address barriers to housing.

Furthermore, the contractor will provide a .5 FTE licensed mental health professional to provide support to program staff working with youth with mental illness and substance use problems. This mental health professional will provide:

- High level support and crisis consultation
- Information and direction as it relates to youth’s care
- Clinical insight while supporting and educating staff regarding behavioral health issues
- Mental health assessments and care planning of youth participating in NWYS programs.

**TLP Rental Assistance services:** Additionally, the contractor will use rental assistance funding received from the County towards the rental costs of up to 10 units dedicated to the Transitional Living Program at Francis Place for youth.

**IV. Program Outcomes**

During this contract period, the housing case management services provided by the Contractor will deliver the following outcomes:

1. At any point in time, 35-45 youth households will receive youth Housing Interest Pool case management services
2. At least thirty-two (32) of Whatcom County’s homeless youth households per year will be stably housed after receiving case management services; five (5) of those from the permanent supportive housing population
3. The contractor will strive to rapidly rehouse clients; with the goal of most finding permanent housing within 45 days from enrollment in care management
4. At least 85% of youth households who obtained housing will remain stably housed 6 months after exiting case management services; 75% of youth from the permanent supportive housing population will remain stably housed 6 months after obtaining housing.

**V. Additional Requirements**

The contractor will:

1. Participate in HMIS data collection efforts as directed by the WHSC; including HMIS training, HMIS data entry, updating client data as necessary, and exiting clients from HMIS. Services which must be inputted into HMIS include (but are not limited to) financial services—including deposits, rental payments, and completed home visits.
2. Comply with the following HIP Referral procedure. When Contractor staff believes a referral from the HIP is not a good fit for their program — a situation that should be rare - the following procedure must be followed:
   a. Contractor will submit a written description of the situation that justifies returning the client to the HIP, and
   b. An in-person case conference must be scheduled within five days of request to return a referral. The case conference will include Contractor staff, WHSC housing referral specialist, and HIP case management services coordinator (or designee).
c. The course of action mutually agreed to at the case conference will be recorded in writing, constituting a binding agreement.

d. As the parties to this contract learn more about referral success factors, procedures may be amended accordingly.

3. Promote public health in homeless housing and preserve the safety and stability of available housing stock for homeless housing by:
   a. Informing clients/tenants of the importance of upholding safety and health in homeless housing, and of preserving continued access to housing by our homeless housing system
   b. Informing clients/tenants that they may be expected to participate in cleaning and decontaminating their housing unit when necessary for health reasons
   c. Informing clients/tenants that damages to their unit may result in eviction and loss of the unit in the future for our homeless housing system
   d. Informing prospective tenants what they need to do to maintain a safe and clean apartment in advance of receiving housing and periodically after they are in housing
   e. In scattered site, master lease, public housing, and staffed housing programs, case managers will work with the client/tenant to address issues of health and safety that arise, including that of suspected methamphetamine use. The WCHD will provide Case managers free and confidential technical assistance on effective methods for cleaning apartment units that have been contaminated whenever requested
   f. Documenting in each client file that these expectations were communicated to the client/tenant

4. Require professional development training for direct service staff and supervisors.

5. Attend Whatcom County Coalition to End Homelessness meetings and sponsored activities.

6. Attend meetings and events coordinated by WHSC.

**VI. Reporting Requirements**

The contractor shall submit quarterly reports to the WCHD utilizing HMIS data in a format approved by the County showing the contractor’s progress toward achieving the outcomes identified above. Quarterly reports are due on April 10, July 10, October 10, January 10.

Reports will include data for only those clients served under this contract and include:

1. # of youth on Housing Interest Pool as of the last day of the quarter, # of youth stably housed this quarter and contract to date
2. # of youth stably housed from the permanent supportive housing population this quarter and contract to date
3. For those housed this quarter, the number of days from enrollment in case management services to obtaining housing
4. Average number of days from enrollment in case management to obtaining housing
5. # of youth stably housed 6 months after obtaining housing.
6. # of youth stably housed 6 months after exiting case management services.

Additionally, monthly reports shall be submitted to the WCHD detailing occupancy for each unit of the Transitional Living Program at Francis Place, to include current occupancy of the units, previous housing situation for new admissions to TLP units, and the housing plan for youth upon exiting from TLP units at Francis Place.
I. **Source of Funding:** The source of funding for this contract, in the amount not to exceed $239,821, is local document recording fees, mental health millage and the Behavioral Health Program Fund.

II. **Allowable Cost Budget:** The annual budget is as follows:

<table>
<thead>
<tr>
<th>Line Item</th>
<th>Documentation Required with Invoice</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personnel – Case Manager, Housing Programs Manager, HMIS Specialist, Programs Director</td>
<td>Approved Composite Billing Rate Worksheet for each staff member and Timesheets for the period.</td>
<td>$131,590</td>
</tr>
<tr>
<td>Mental Health Professional</td>
<td>Approved Composite Billing Rate Worksheet for each staff member and Timesheets for the period.</td>
<td>43,586</td>
</tr>
<tr>
<td>Occupancy</td>
<td>GL detail</td>
<td>$1,536</td>
</tr>
<tr>
<td>Program Direct Printing, Postage, Office Supplies, Telephone</td>
<td>GL detail</td>
<td>$1,680</td>
</tr>
<tr>
<td>Training</td>
<td>Include name of traveler, dates, start &amp; end point, and purpose. Receipts required for transportation costs, registration fees, etc. Lodging &amp; meal costs follow federal guidelines (<a href="http://www.gsa.gov">www.gsa.gov</a>). Receipts for meals not required.</td>
<td>$1,000</td>
</tr>
<tr>
<td>Mileage</td>
<td>Mileage log to include: name of the staff member, date of travel, starting point and destination of travel, the number of miles traveled, the federal reimbursement rate (per <a href="http://www.gsa.gov">www.gsa.gov</a>), and a brief description of the purpose of travel.</td>
<td>$3,000</td>
</tr>
<tr>
<td>Flex Funds (Per Attachment E)</td>
<td>Flex Fund Spreadsheet plus copies of receipts</td>
<td>$2,000</td>
</tr>
<tr>
<td>Rental Assistance</td>
<td>Listing of occupied units</td>
<td>$36,990</td>
</tr>
<tr>
<td><strong>SUBTOTAL:</strong></td>
<td></td>
<td><strong>$221,382</strong></td>
</tr>
<tr>
<td>Admin</td>
<td>10% (not on rental assistance)</td>
<td>$18,439</td>
</tr>
<tr>
<td><strong>TOTAL:</strong></td>
<td></td>
<td><strong>$239,821</strong></td>
</tr>
</tbody>
</table>

Changes to the line item budget that exceed 10% of the line item must be approved in writing by the County. Under no circumstances shall the administrative rate exceed 10%.

III. **Invoicing**

1. The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly invoices must be submitted by the 15th of the month following the month of service. Invoices submitted for payment must include the items identified in the table above.

2. The Contractor shall submit invoices to:

   Attention: Business Office – HL-BusinessOffice@co.whatcom.wa.us
   Whatcom County Health Department
   509 Girard Street
   Bellingham, WA  98225
3. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.

4. Invoices must include the following statement, with an authorized signature and date:

   I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

5. **Duplication of Billed Costs or Payments for Service:** The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.
TITLE OF DOCUMENT: Grant agreement with Washington Department of Ecology for Coordinated Prevention Grant

ATTACHMENTS:
1. Information Sheet
2. Executive Memo
3. 2 copies of Grant Agreement

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( X ) NO
Should Clerk schedule a hearing? ( ) Yes ( X ) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This Coordinated Prevention Grant has been a continuous source of solid waste program funding since 1996 and provides funding for operation of a fixed toxics facility used for the proper disposal and recycling of moderate risk wastes and three rural waste oil and antifreeze collection stations.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: Jack Louws, County Executive

FROM: Regina A. Delahunt, Director

RE: Department of Ecology 2017 – 2019 Coordinated Prevention Grant for Implementation Activities

DATE: May 7, 2018

Enclosed are two (2) originals of a contract between Whatcom County and the Washington Department of Ecology for your review and signature.

- **Background and Purpose**
  The Coordinated Prevention Grant Implementation Program has been a continuous source of solid waste program funding since 1996. The grant funds operation of a fixed toxics facility used for the proper disposal and recycling of moderate risk wastes and three rural waste oil and antifreeze collection stations.

- **Funding Amount and Source**
  The 2017-2019 grant provides $196,714.64 in state funds to be matched with $65,571.55 in local funds from the local Solid Waste Disposal Tax. This local match is in the County’s 2018 budget. This agreement requires Council approval because the local match funding exceeds $20,000. An agenda bill is attached.

- **Differences from Previous Contract**
  There is no significant change in the grant requirements. Funding is $144,605 less than the last biennium. The unfunded portion of the Disposal of Toxic facility will be paid through the Solid Waste Disposal Tax Fund.

Please contact Jeff Hegedus at extension 6044, if you have any questions or concerns regarding the terms of this agreement.

Encl.
### WHATCOM COUNTY CONTRACT INFORMATION SHEET

**Originating Department:** Health  
**Division/Program:** 85/8540/854080 Solid Waste Infrastructure  
**Contract or Grant Administrator:** Jeff Hegedus  
**Contractor’s / Agency Name:** Washington Department of Ecology

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
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<tr>
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<td>☒</td>
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**Contract Amount:** $196,714.64

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</tr>
</tbody>
</table>

**Summary of Scope:** The Coordinated Prevention Implementation Grant provides funding for operation of the solid waste disposal and recycling facilities.

**Term of Contract:** 2 year  
**Expiration Date:** 6/30/2019

**Contract Routing:**  
1. Prepared by:  
2. Attorney signoff:  
3. AS Finance reviewed:  
4. IT reviewed (if IT related):  
5. Contractor signed:  
6. Submitted to Exec.:  
7. Council approved (if necessary):  
8. Executive signed:  
9. Original to Council:  

**Date:** 5/17/18  
**Date:** 5-8-18
Agreement No. W2RLSWFA-1719-WhCoHD-00085

WASTE 2 RESOURCES LOCAL SOLID WASTE FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

WHATCOM COUNTY HEALTH DEPARTMENT

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY," and WHATCOM COUNTY HEALTH DEPARTMENT, hereinafter referred to as the "RECIPIENT," to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title: 2017-19 LSWFA Whatcom Health Dept. IMP
Total Cost: $720,000.00
Total Eligible Cost: $262,286.19
Ecology Share: $196,714.64
Recipient Share: $65,571.55
The Effective Date of this Agreement is: 07/01/2017
The Expiration Date of this Agreement is no later than: 06/30/2019
Project Type: Planning/Implementation

Project Short Description:
Whatcom County will spend $262,286.19 in the two year biennium to properly collect and manage an estimated one million pounds of moderate risk wastes from approximately 20,000 residential and commercial customers.

Project Long Description:
N/A

Overall Goal:
Provide regional solutions and intergovernmental cooperation; prevent or minimize environmental contamination through planning and project implementation; and comply with state and local solid and hazardous waste management plans and laws.
**RECIPIENT INFORMATION**

**Organization Name:** WHATCOM COUNTY HEALTH DEPARTMENT

**Federal Tax ID:** 91-6001383  
**DUNS Number:** 600446410

**Mailing Address:** 509 Girard St.  
Bellingham, WA 98225

**Physical Address:** 509 Girard St.  
Bellingham, Washington 98225

**Organization Email:** jhegedus@co.whatcom.wa.us  
**Organization Fax:** (360) 778-6001

**Contacts**

| Project Manager          | Jeff Hegedus  
|                         | Environmental Health Supervisor  
|                         | 509 Girard St.  
|                         | Bellingham, Washington 98225  
|                         | Email: jhegedus@co.whatcom.wa.us  
|                         | Phone: (360) 778-6044  

| Billing Contact          | Patricia Proctor  
|                         | Accounting Supervisor  
|                         | 509 Girard St.  
|                         | Bellingham, Washington 98225  
|                         | Email: pproctor@co.whatcom.wa.us  
|                         | Phone: (360) 778-6044  

| Authorized Signatory     | Regina Delahunt  
|                         | Director  
|                         | 509 Girard Street  
|                         | Bellingham, Washington 98225  
|                         | Email: rdelahun@co.whatcom.wa.us  
|                         | Phone: (360) 778-6005  

Version 10/30/2015
ECOLOGY INFORMATION

Mailing Address: Department of Ecology
Waste 2 Resources
PO BOX 47600
Olympia, WA 98504-7600

Physical Address: Waste 2 Resources
300 Desmond Drive SE
Lacey, WA 98503

<table>
<thead>
<tr>
<th>Contacts</th>
<th>Diana Wadley</th>
</tr>
</thead>
</table>
| Project Manager   | 3190 - 160th Ave SE
Bellevue, Washington 98008-5452
Email: dwad461@ecy.wa.gov
Phone: (425) 649-7056 |
| Financial Manager | 3190 - 160th Ave SE
Bellevue, Washington 98008-5452
Email: dwad461@ecy.wa.gov
Phone: (425) 649-7056 |
AUTHORIZING SIGNATURES

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

This Agreement shall be subject to the written approval of Ecology’s authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement and bind their respective organizations to this Agreement.

IN WITNESS WHEREOF: the parties hereto, having read this Agreement in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Washington State
Department of Ecology

By: ____________________________ Date ____________________________
Laurie Davies
Waste 2 Resources
Program Manager

Template Approved to Form by
Attorney General's Office

WHATCOM COUNTY HEALTH DEPARTMENT

By: ____________________________ Date ____________________________
Regina Delahunt
Director

Version 10/30/2015
John Wolpers

John Wolpers 5/3/18

Environmental Health Manager  Date

Royce Buckingham

5-4-18

Deputy Prosecuting Attorney  Date

Jack Louws

County Executive  Date

Version 10/30/2015
SCOPE OF WORK

Task Number: 1

Task Cost: $262,286.19

Task Title: MRW Collection and Management

Task Description:
Activity - Fixed Facility, Collection Events, Used Oil/Antifreeze Collection, Reuse Station

The RECIPIENT will provide for the operation of a fixed facility (known as the Disposal of Toxics facility) for the collection and proper management of moderate risk wastes from households and conditionally exempt small quantity generators, and operate three rural waste oil and antifreeze collection stations. Additionally, the RECIPIENT may also conduct approximately two off-site collection events per year, if funding is available.

The RECIPIENT will also provide information to the public on safer alternatives and proper disposal. Good, usable products brought in but meeting a certain criteria will be made available to the public on a reuse shelf.

The RECIPIENT contracts with an environmental services company to operate the county-owned facility. Reimbursement for costs incurred by contractors to implement work identified in this Task are subject to the same eligibility and reimbursement requirements as the RECIPIENT, and require ECOLOGY approval.

This task will not pay for costs covered by existing product stewardship programs (E-Cycle Washington, LightRecycle Washington) or for costs covered by any new product stewardship programs that are adopted during this Agreement period.

This grant does not pay for the disposal costs for hazardous waste from businesses such as Conditionally Exempt Small Quantity Generators (CESQGs). If shipment/disposal bills for CESQG waste cannot be separated out, then fees charged to CESQG's should cover disposal costs, and should be treated as income to the grant, with supporting documentation.

RECIPIENT will credit the grant for any revenue received from the collection of fees or commodity sales of items the grant is directly supporting.

Task Goal Statement:
The goal of this task is to provide reliable, efficient and cost-effective moderate risk waste services to residents and qualified businesses, thus preventing land, air and water pollution by properly disposing of waste chemicals and encouraging the use of non-toxic materials, thereby increasing awareness of toxic wastes in the home and workplace.

Task Expected Outcome:
Over the two-year grant period, the RECIPIENT expects to divert approximately 498 tons of moderate risk waste via over 18,000 residential and 2,500 commercial participants. Outcomes will be tracked via the monthly reports from the contractor operating the facility.
Recipient Task Coordinator: Jeff Hegedus

MRW Collection and Management

### Deliverables

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Work as defined in the Scope of Work for this Agreement is implemented.</td>
<td>06/30/2019</td>
</tr>
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</table>
BUDGET

Funding Distribution EG180379

NOTE: The above funding distribution number is used to identify this specific agreement and budget on payment remittances and may be referenced on other communications from ECOLOGY. Your agreement may have multiple funding distribution numbers to identify each budget.

<table>
<thead>
<tr>
<th>Funding Title:</th>
<th>Whatcom County Health Dept. IMP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Funding Effective Date:</td>
<td>07/01/2017</td>
</tr>
<tr>
<td>Funding Type:</td>
<td>Grant</td>
</tr>
<tr>
<td>Funding Expiration Date:</td>
<td>06/30/2019</td>
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</tbody>
</table>

Funding Source:

<table>
<thead>
<tr>
<th>Title:</th>
<th>State Building Construction Account (SBCA)</th>
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<tbody>
<tr>
<td>Type:</td>
<td>State</td>
</tr>
<tr>
<td>Funding Source %:</td>
<td>100%</td>
</tr>
<tr>
<td>Description:</td>
<td>Local Solid Waste Financial Assistance</td>
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</tbody>
</table>

Approved Indirect Costs Rate: Approved State Indirect Rate: 25%

Recipient Match %: 25%
InKind Interlocal Allowed: No
InKind Other Allowed: No
Is this Funding Distribution used to match a federal grant? No

<table>
<thead>
<tr>
<th>Whatcom County Health Dept. IMP</th>
<th>Task Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>MRW Collection and Management</td>
<td>$ 262,286.19</td>
</tr>
</tbody>
</table>

Total: $ 262,286.19
Funding Distribution Summary

Recipient / Ecology Share

<table>
<thead>
<tr>
<th>Funding Distribution Name</th>
<th>Recipient Match %</th>
<th>Recipient Share</th>
<th>Ecology Share</th>
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<tbody>
<tr>
<td>Whatcom County Health Dept. IMP</td>
<td>25.00 %</td>
<td>$65,571.55</td>
<td>$196,714.64</td>
<td>$262,286.19</td>
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<tr>
<td>Total</td>
<td></td>
<td>$65,571.55</td>
<td>$196,714.64</td>
<td>$262,286.19</td>
</tr>
</tbody>
</table>

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.

2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.

4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled “CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION” without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.

7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of

Version 10/30/2015
Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.

8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than $25,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than $25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsrs.gov <http://www.fsrs.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsrs.gov <http://www.fsrs.gov>.
GENERAL TERMS AND CONDITIONS

Pertaining to Grant and Loan Agreements With the State of Washington, Department of Ecology

GENERAL TERMS AND CONDITIONS AS OF LAST UPDATED 1/22/2018 VERSION

1. ADMINISTRATIVE REQUIREMENTS
   b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
   c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
   d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS
   This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES
   RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological and historic resources. The RECIPIENT must agree to hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the RECIPIENT’s project funded under this Agreement.
   RECIPIENT shall:
   a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
      • For capital construction projects or land acquisitions for capital construction projects, if required, comply with Governor Executive Order 05-05, Archaeology and Cultural Resources.
      • For projects with any federal involvement, if required, comply with the National Historic Preservation Act.
      • Any cultural resources federal or state requirements must be completed prior to the start of any work on the project site.
   b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.
      RECIPIENT shall:
      • Keep the IDP at the project site.
      • Make the IDP readily available to anyone working at the project site.
      • Discuss the IDP with staff and contractors working at the project site.
      • Implement the IDP when cultural resources or human remains are found at the project site.
   c) If any archeological or historic resources are found while conducting work under this Agreement:
      • Immediately stop work and notify the ECOLOGY Program, the Department of Archaeology and Historic Preservation at (360) 586-3064, any affected Tribe, and the local government.
   d) If any human remains are found while conducting work under this Agreement:

Version 10/30/2015
• Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner’s Office, and then the ECOLOGY Program.
e) Comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.

4. ASSIGNMENT
No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

5. COMMUNICATION
RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

6. COMPENSATION
a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.
d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
g) RECIPIENT will receive payment through Washington State Department of Enterprise Services’ Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@watech.wa.gov.
h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY’s sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.
j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS
RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:
a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.
c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

Version 10/30/2015
ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements. If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

8. CONFLICT OF INTEREST
RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

9. CONTRACTING FOR GOODS AND SERVICES
RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition. RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement. ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

10. DISPUTES
When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:
   a) RECIPIENT notifies the funding program of an appeal request.
   b) Appeal request must be in writing and state the disputed issue(s).
   c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
   d) ECOLOGY reviews the RECIPIENT’s appeal.
   e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal. Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director’s decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties’ choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

11. ENVIRONMENTAL DATA STANDARDS
   a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact
the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY’s QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at: http://www.ecy.wa.gov/eim.

c) RECIPIENT shall follow ECOLOGY’s data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

12. GOVERNING LAW
This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

13. INDEMNIFICATION
ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.
To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

14. INDEPENDENT STATUS
The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

15. KICKBACKS
RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

16. MINORITY AND WOMEN’S BUSINESS ENTERPRISES (MWBE)
RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.
Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.

b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.

c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified
minority and women’s businesses.

d) Use the services and assistance of the Washington State Office of Minority and Women’s Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

17. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (f) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT’s communication documents and materials related to the fulfillment of this Agreement:

a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.

b) RECIPIENT shall include time for ECOLOGY’s review and approval process in their project timeline.

c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY’s logo shall comply with ECOLOGY’s graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY’s logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

19. PROGRESS REPORTING

a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.

b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.

c) RECIPIENT shall use ECOLOGY’s provided progress report format.

d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.

e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

20. PROPERTY RIGHTS

a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to
authorize others to use the same for federal, state, or local government purposes.

b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.

c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.

d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.

e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.

f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:

1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.

2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.

g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

21. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

a) Be kept in a manner which provides an audit trail for all expenditures.

b) Be kept in a common file to facilitate audits and inspections.

c) Clearly indicate total receipts and expenditures related to this Agreement.

d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of
this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder. RECIPENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

22. RECOVERY OF FUNDS
The right of the RECIPENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.
All payments to the RECIPENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPENT.
RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.
RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.
Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

23. SEVERABILITY
If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)
RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

25. SUSPENSION
When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPENT. RECIPENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

26. SUSTAINABLE PRACTICES
In order to sustain Washington's natural resources and ecosystems, the RECIPENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.

b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, and 100% post-consumer recycled paper.
For more suggestions visit ECOLOGY's web page: Green Purchasing,

27. TERMINATION
a) For Cause
ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the

Version 10/30/2015
RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination. Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement. Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience
ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Non-Allocation of Funds. ECOLOGY’s ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the recipient/contractor through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the recipient/contractor. In no event shall ECOLOGY’s reimbursement exceed ECOLOGY’s total responsibility under the agreement and any amendments.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.
RECIPIENT’s obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement
ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination
All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work.
completed on such documents and other materials. Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

28. THIRD PARTY BENEFICIARY
RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

29. WAIVER
Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.
### CLEARANCES
- **Originator:** Pp 5/3/18
- **Division Head:** 5/3/18
- **Dept. Head:** 5/3/18
- **Prosecutor:** 6/4/18
- **Purchasing/Budget:** 5/7/18
- **Executive:** 5/14/18

### TITLE OF DOCUMENT:
Grant agreement with Washington Department of Ecology for Coordinated Prevention Grant

### ATTACHMENTS:
1. Information Sheet
2. Executive Memo
3. 2 copies of Grant Agreements

### SEPA review required? ( ) Yes ( x ) NO
### SEPA review completed? ( ) Yes ( x ) NO

### Should Clerk schedule a hearing? ( ) Yes ( x ) NO
### Requested Date:

### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This Coordinated Prevention Grant has been a continuous source of solid waste program funding since 1996 and provides funding for solid waste compliance management and littering and illegal dumping enforcement services.

### COMMITTEE ACTION:

### COUNCIL ACTION:

### Related County Contract #:

### Related File Numbers:

### Ordinance or Resolution Number:

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
Enclosed are two (2) originals of a contract between Whatcom County and the Washington Department of Ecology for your review and signature.

- **Background and Purpose**
The Coordinated Prevention Grant Enforcement Program has been a continuous source of solid waste program funding since 1996. The grant funds solid waste compliance management and littering and illegal dumping enforcement services.

- **Funding Amount and Source**
The 2017-2019 grant provides $134,811.14 in state funds to be matched with $44,937.05 in local funds from the local Solid Waste Disposal Tax. This local match is in the County’s 2018 budget. This agreement requires Council approval because the local match funding exceeds $20,000. An agenda bill is attached.

- **Differences from Previous Contract**
There is no significant change in the grant requirements. Funding is $2,648 more than the last biennium.

Please contact Jeff Hegedus at extension 6044, if you have any questions or concerns regarding the terms of this agreement.
<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division/Program: (i.e. Dept. Division and Program)</td>
<td>85/8540/854085 Solid Waste Enforcement</td>
</tr>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Jeff Hegedus</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Washington Department of Ecology</td>
</tr>
</tbody>
</table>

**Is this a New Contract?**
- Yes [X]
- No [ ]

**If not, is this an Amendment or Renewal to an Existing Contract?**
- Yes [ ]
- No [X]

**If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:**

**Does contract require Council Approval?**
- Yes [X]
- No [ ]

**If No, include WCC:**
- (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

**Is this a grant agreement?**
- Yes [X]
- No [ ]

**If yes, grantor agency contract number(s):**
- W2RLSWFA
- -1719
- WhCoHD000
- 86

**Is this contract grant funded?**
- Yes [ ]
- No [X]

**If yes, Whatcom County grant contract number(s):**

**Is this contract the result of a RFP or Bid process?**
- Yes [ ]
- No [X]

**If yes, RFP and Bid number(s):**

**Contract**

<table>
<thead>
<tr>
<th>Cost Center:</th>
<th>655200</th>
</tr>
</thead>
</table>

**If YES, indicate exclusion(s) below:**
- Professional services agreement for certified/licensed professional [ ]
- Contract work is for less than $100,000. [ ]
- Contract work is for less than 120 days. [ ]
- Interlocal Agreement (between Governments). [X]
- Contract for Commercial off the shelf items (COTS). [ ]
- Work related subcontract less than $25,000. [ ]
- Public Works - Local Agency/Federally Funded FHWA. [ ]

**Contract Amount:** (sum of original contract amount and any prior amendments):

- $134,811.14

**This Amendment Amount:**

**Total Amended Amount:**

**Summary of Scope:**

The Coordinated Prevention Enforcement Grant provides funding for solid waste compliance management and littering and illegal dumping enforcement services.

**Term of Contract:**
- 2 years

<table>
<thead>
<tr>
<th>Expiration Date:</th>
<th>6/30/2019</th>
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</thead>
</table>

**Council approval required for:**
- all property leases, contracts or bid awards exceeding $40,000, and professional service contract amendments that have an increase greater than $10,000 or 10% of contract amount, whichever is greater, **except when:**
  1. Exercising an option contained in a contract previously approved by the council.
  2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.
  3. Bid or award is for supplies.
  4. Equipment is included in Exhibit “B” of the Budget Ordinance
  5. Contract is for manufacturer’s technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

**Contract Routing:**
- Prepared by: [pp]
- Attorney signoff: [WCC]
- AS Finance reviewed: [ ]
- IT reviewed (if IT related): [ ]
- Contractor signed: [ ]
- Submitted to Exec.: [ ]
- Council approved (if necessary): [ ]
- Executive signed: [ ]
- Original to Council: [ ]

**Date:**
- 5/3/2018
- 5/4/18
- 5/7/18
- 5/8/18
Agreement No. W2RLSWFA-1719-WhCoHD-00086

WASTE 2 RESOURCES LOCAL SOLID WASTE FINANCIAL ASSISTANCE AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

WHATCOM COUNTY HEALTH DEPARTMENT

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY," and WHATCOM COUNTY HEALTH DEPARTMENT, hereinafter referred to as the "RECIPIENT," to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title: 2017-19 LSWFA Whatcom County Health Department SWE
Total Cost: $345,771.00
Total Eligible Cost: $179,748.19
Ecology Share: $134,811.14
Recipient Share: $44,937.05
The Effective Date of this Agreement is: 07/01/2017
The Expiration Date of this Agreement is no later than: 06/30/2019
Project Type: Solid Waste Enforcement

Project Short Description:
Whatcom County will spend $179,748.19 to enforce solid waste handling standards, respond to waste management inquiries, investigate solid waste management practices at approximately 600 solid waste complaint sites, and inspect 16 solid waste handling facilities conditionally exempt from permitting.

Project Long Description:
N/A

Overall Goal:
Provide regional solutions and intergovernmental cooperation; prevent or minimize environmental contamination through planning and project implementation; and comply with state and local solid and hazardous waste management plans and laws.
**RECIPIENT INFORMATION**

**Organization Name:** WHATCOM COUNTY HEALTH DEPARTMENT

**Federal Tax ID:** 91-6001383  
**DUNS Number:** 600446410

**Mailing Address:** 509 Girard St.  
Bellingham, WA 98225

**Physical Address:** 509 Girard St.  
Bellingham, Washington 98225

**Organization Email:** jhegedus@co.whatcom.wa.us  
**Organization Fax:** (360) 778-6001

### Contacts

| **Project Manager** | Jeff Hegedus  
Environmental Health Supervisor  
509 Girard St.  
Bellingham, Washington 98225  
Email: jhegedus@co.whatcom.wa.us  
Phone: (360) 778-6044 |
|---------------------|-----------------------------------------------------------|
| **Billing Contact** | Patricia Proctor  
Accounting Supervisor  
509 Girard St.  
Bellingham, Washington 98225  
Email: pproctor@co.whatcom.wa.us  
Phone: (360) 778-6044 |
| **Authorized Signatory** | Regina Delahunt  
Director  
509 Girard Street  
Bellingham, Washington 98225  
Email: rdelahun@co.whatcom.wa.us  
Phone: (360) 778-6005 |
ECOLOGY INFORMATION

Mailing Address: Department of Ecology
Waste 2 Resources
PO BOX 47600
Olympia, WA 98504-7600

Physical Address: Waste 2 Resources
300 Desmond Drive SE
Lacey, WA 98503

<table>
<thead>
<tr>
<th>Contacts</th>
<th>Diane Wadley</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Manager</td>
<td>3190 - 160th Ave SE</td>
</tr>
<tr>
<td></td>
<td>Bellevue, Washington 98008-5452</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:dwad461@ecy.wa.gov">dwad461@ecy.wa.gov</a></td>
</tr>
<tr>
<td></td>
<td>Phone: (425) 649-7056</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Financial Manager</th>
<th>Diane Wadley</th>
</tr>
</thead>
<tbody>
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<td></td>
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<td></td>
<td>Phone: (425) 649-7056</td>
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</table>
AUTHORIZING SIGNATURES

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

This Agreement shall be subject to the written approval of Ecology’s authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement and bind their respective organizations to this Agreement.

IN WITNESS WHEREOF: the parties hereto, having read this Agreement in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Washington State
Department of Ecology

By:

Laurie Davies
Waste 2 Resources
Program Manager

Template Approved to Form by
Attorney General’s Office

WHATCOM COUNTY HEALTH DEPARTMENT

By: [Signature] 5/3/18
Regina Delahunt
Director

Date
John Wolpers

Environmental Health Manager

Royce Buckingham

Deputy Prosecuting Attorney

Jack Louws

County Executive
SCOPE OF WORK

Task Number: 1

Task Cost: $179,748.19

Task Title: Solid Waste Enforcement

Task Description:
Activity - Exempt Solid Waste Handling Facility and Site Compliance

RECIPIENT shall conduct annual site inspections at approximately 16 conditionally exempt solid waste handling facilities to maintain compliance with local and state solid waste handling requirements including but not limited to chapter 173-350 WAC, Solid Waste Handling Standards, and chapter 70.95 RCW.

New notices of exemption considered during the grant period may be managed under this agreement.

Ordinance development necessary to comply with chapter 173-350 WAC, including travel to attend Ecology sponsored trainings, are eligible costs for reimbursement under this Agreement. Technical assistance to facilities or sites whose permitting needs may be adjusted by chapter 173-350 WAC is also eligible.

Activity - Solid Waste Complaint Investigation and Technical Assistance

RECIPIENT will investigate all reports of improper solid waste handling and initiate enforcement when necessary to abate a solid waste handling violation. RECIPIENT will also offer technical assistance on interpretation of solid waste regulations, provide education on proper handling and disposal of waste, and respond to all other solid waste related inquiries from the public.

The cost of memberships in civic, business, technical and professional organizations are allowed to the extent they are covered in the indirect rate. RECIPIENT may direct bill for memberships pre-approved by ECOLOGY, when indirect is not charged to the task.

Task Goal Statement:
The goal of this task is to protect human health and the environment from improper solid waste management practices at solid waste handling facilities that are exempt from the permitting requirements of chapter 173-350 WAC. Additionally, this task aims to protect human health and the environment by monitoring, assisting, educating and enforcing compliance with solid waste handling requirements.

Task Expected Outcome:
Over the two-year grant period, RECIPIENT will conduct approximately 32 facility inspections, investigate and resolve over 350 solid waste handling complaints, and respond to approximately 150 requests for technical assistance.

RECIPIENT will track complaint investigation activities and outcomes, mostly via its Envision Connect electronic database. Facility site inspection records are documented on inspection checklists, for monitoring and evaluation, and data is condensed onto quarterly Performance Measurement reports.

Version 10/30/2015
Recipient Task Coordinator: Jeff Hegedus

**Solid Waste Enforcement**

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Work as defined in the Scope of Work for this Agreement is implemented.</td>
<td>06/30/2019</td>
</tr>
</tbody>
</table>
BUDGET

Funding Distribution EG180372

NOTE: The above funding distribution number is used to identify this specific agreement and budget on payment remittances and may be referenced on other communications from ECOLOGY. Your agreement may have multiple funding distribution numbers to identify each budget.

Funding Title: Whatcom County Health Department IMP
Funding Effective Date: 07/01/2017
Funding Type: Grant
Funding Expiration Date: 06/30/2019

Funding Source:

Title: State Building Construction Account (SBCA)
Type: State
Funding Source %: 100%
Description: Local Solid Waste Financial Assistance

Approved Indirect Costs Rate: Approved State Indirect Rate: 25%
Recipient Match %: 25%
InKind Interlocal Allowed: No
InKind Other Allowed: No
Is this Funding Distribution used to match a federal grant? No

<table>
<thead>
<tr>
<th>Whatcom County Health Department IMP</th>
<th>Task Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solid Waste Enforcement</td>
<td>$179,748.19</td>
</tr>
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</table>

Total: $179,748.19
Funding Distribution Summary

**Recipient / Ecology Share**

<table>
<thead>
<tr>
<th>Funding Distribution Name</th>
<th>Recipient Match %</th>
<th>Recipient Share</th>
<th>Ecology Share</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td>Whatcom County Health</td>
<td>25.00 %</td>
<td>$44,937.05</td>
<td>$134,811.14</td>
<td>$179,748.19</td>
</tr>
<tr>
<td>Department IMP</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
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<td>$134,811.14</td>
<td>$179,748.19</td>
</tr>
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</table>

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The Recipient/Contractor, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the Recipient/Contractor is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.

2. The Recipient/Contractor shall provide immediate written notice to Ecology if at any time the Recipient/Contractor learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact Ecology for assistance in obtaining a copy of those regulations.

4. The Recipient/Contractor agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

5. The Recipient/Contractor further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

6. Pursuant to 2CFR180.330, the Recipient/Contractor is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.

7. Recipient/Contractor acknowledges that failing to disclose the information required in the Code of
Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.

8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than $25,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than $25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsrs.gov <http://www.fsrs.gov> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov>.

For more details on FFATA requirements, see www.fsrs.gov <http://www.fsrs.gov>.
GENERAL TERMS AND CONDITIONS

Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

GENERAL TERMS AND CONDITIONS AS OF LAST UPDATED 1/22/2018 VERSION

1. ADMINISTRATIVE REQUIREMENTS
   b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
   c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
   d) RECIPIENT’s activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS
   This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ARCHAEOLOGICAL AND CULTURAL RESOURCES
   RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological and historic resources. The RECIPIENT must agree to hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the RECIPIENT’s project funded under this Agreement.
   RECIPIENT shall:
   a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
      • For capital construction projects or land acquisitions for capital construction projects, if required, comply with Governor Executive Order 05-05, Archaeology and Cultural Resources.
      • For projects with any federal involvement, if required, comply with the National Historic Preservation Act.
      • Any cultural resources federal or state requirements must be completed prior to the start of any work on the project site.
   b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.
      RECIPIENT shall:
      • Keep the IDP at the project site.
      • Make the IDP readily available to anyone working at the project site.
      • Discuss the IDP with staff and contractors working at the project site.
      • Implement the IDP when cultural resources or human remains are found at the project site.
   c) If any archeological or historic resources are found while conducting work under this Agreement:
      • Immediately stop work and notify the ECOLOGY Program, the Department of Archaeology and Historic Preservation at (360) 586-3064, any affected Tribe, and the local government.
   d) If any human remains are found while conducting work under this Agreement:

Version 10/30/2015
• Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner’s Office, and then the ECOLOGY Program.

e) Comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.

4. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

5. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT’s designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

6. COMPENSATION

a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.

b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.

c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.

d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.

e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.

f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.

g) RECIPIENT will receive payment through Washington State Department of Enterprise Services’ Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email payeehelpdesk@watech.wa.gov.

h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.

i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY’s sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this agreement. Failure to comply may result in delayed reimbursement.

7. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.

b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.

c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.

d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

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ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

8. CONFLICT OF INTEREST
RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

9. CONTRACTING FOR GOODS AND SERVICES
RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT’s normal procedures may be disallowed at ECOLOGY’s sole discretion.

10. DISPUTES
When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

a) RECIPIENT notifies the funding program of an appeal request.

b) Appeal request must be in writing and state the disputed issue(s).

c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.

d) ECOLOGY reviews the RECIPIENT’s appeal.

e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director’s decision will be brought in the Superior Court of Thurston County. Review of the Director’s decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this Agreement will be construed to limit the parties’ choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

11. ENVIRONMENTAL DATA STANDARDS
a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact
the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY’s QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at: http://www.ecy.wa.gov/eim.

c) RECIPIENT shall follow ECOLOGY’s data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

12. GOVERNING LAW
This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

13. INDEMNIFICATION
ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.
To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

14. INDEPENDENT STATUS
The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

15. KICKBACKS
RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

16. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)
RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.
Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.

b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.

c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified

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minority and women's businesses.

d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

17. ORDER OF PRECEDENCE
In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (f) the General Terms and Conditions.

18. PRESENTATION AND PROMOTIONAL MATERIALS
ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.

b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.

c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY’s logo shall comply with ECOLOGY’s graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY’s logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

19. PROGRESS REPORTING

a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.

b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.

c) RECIPIENT shall use ECOLOGY's provided progress report format.

d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.

e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

20. PROPERTY RIGHTS

a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to
authorize others to use the same for federal, state, or local government purposes.
b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
d) Tangible Property Rights. ECOLOGY’s current edition of “Administrative Requirements for Recipients of Ecology Grants and Loans,” shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT’s possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
   1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
   2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney’s opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

21. RECORDS, AUDITS, AND INSPECTIONS
RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.
All records shall:
a) Be kept in a manner which provides an audit trail for all expenditures.
b) Be kept in a common file to facilitate audits and inspections.
c) Clearly indicate total receipts and expenditures related to this Agreement.
d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.
RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.
ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination. All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of
this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder. RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

22. RECOVERY OF FUNDS
The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work. All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT. RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.
RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.
Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

23. SEVERABILITY
If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

24. STATE ENVIRONMENTAL POLICY ACT (SEPA)
RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

25. SUSPENSION
When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

26. SUSTAINABLE PRACTICES
In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.
   a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
   b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, and 100% post-consumer recycled paper.

27. TERMINATION
a) For Cause
ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the
RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination. Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement. Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience
ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Non-Allocation of Funds. ECOLOGY’s ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the recipient/contractor through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the recipient/contractor. In no event shall ECOLOGY’s reimbursement exceed ECOLOGY’s total responsibility under the agreement and any amendments.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. RECIPIENT’s obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT’s governing body.

c) By Mutual Agreement
ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination
All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work
completed on such documents and other materials. Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

28. THIRD PARTY BENEFICIARY
RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

29. WAIVER
Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.
TITLE OF DOCUMENT:

Lease agreement between Whatcom County and the Port of Bellingham for use of the real property (land) owned by the Port in which the building owned by the County is situated at 3720 Williamson Way, Bellingham, Washington.

ATTACHMENTS:

| Information Worksheet | Memo | Lease Agreement |

SEPA review required?  
( ) Yes  
( X ) NO  
SEPA review completed?  
( ) Yes  
( X ) NO  
Should Clerk schedule a hearing?  
( ) Yes  
( X ) NO  
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Executive Louws requests approval to enter into a Lease Agreement with the Port of Bellingham for use of the property located at 3720 Williamson Way. The building located at this address will be used for the relocation of the Facilities Management Division as approved through Ordinance 2018-019. The 8,100 square foot facility owned by Whatcom County will better accommodate the needs for administrative and technician space as well as a shop area for the expansion of duties resulting from impending large facilities projects.

COMMITTEE ACTION:  

COUNCIL ACTION:

Related County Contract #:  
Related File Numbers:  
Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
# WHATCOM COUNTY CONTRACT INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Administrative Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division/Program: (i.e. Dept. Division and Program)</td>
<td>Facilities</td>
</tr>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Rob Ney, Facilities Operations Manager</td>
</tr>
<tr>
<td>Contractor’s / Agency Name:</td>
<td>Port of Bellingham</td>
</tr>
</tbody>
</table>

Is this a New Contract? □ No □ If not, is this an Amendment or Renewal to an Existing Contract? □ Yes □ No □

If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: ___________________________

Does contract require Council Approval? □ Yes □ No □ If No, include WCC: ____________________________

(see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement? □ Yes □ No □ If yes, grantor agency contract number(s): ______ CFDA#: ______

Is this contract grant funded? □ Yes □ No □ If yes, Whatcom County grant contract number(s): ______

Is this contract the result of a RFP or Bid process? □ Yes □ No □ If yes, RFP and Bid number(s): ______

Cost Center: 50723

Contract

Is this agreement excluded from E-Verify? □ No □ Yes □ If no, include Attachment D Contractor Declaration form.

If YES, indicate exclusion(s) below:
- □ Professional services agreement for certified/licensed professional.
- □ Contract work is for less than $100,000.
- □ Contract work is for less than 120 days.
- □ Interlocal Agreement (between Governments).
- □ Contract for Commercial off the shelf items (COTS).
- □ Work related subcontract less than $25,000.
- □ Public Works - Local Agency/Federally Funded FHWA.

Contract Amount: (sum of original contract amount and any prior amendments): $ 79,659.00

This Amendment Amount: $ ____________

Total Amended Amount: $ ____________

Council approval required for, all property leases, contracts or bid awards exceeding $40,000, and professional service contract amendments that have an increase greater than 10,000 or 10% of contract amount, whichever is greater, except when:

1. Exercising an option contained in a contract previously approved by the council.
2. Contract is for design, construction, r-e-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.
3. Bid or award is for supplies.
4. Equipment is included in Exhibit "B" of the Budget Ordinance.
5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

Summary of Scope: Lease agreement between Whatcom County and the Port of Bellingham for use of the real property (land) owned by the Port in which the building owned by the County is situated at 3720 Williamson Way, Bellingham, Washington.

<table>
<thead>
<tr>
<th>Term of Contract:</th>
<th>Expiration Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Routing: 1. Prepared by: Twh</td>
<td>Date: 05/11/2018</td>
</tr>
<tr>
<td>2. Attorney signoff: Daniel J. Gibson (with anticipated changes)</td>
<td>Date: 05/15/18</td>
</tr>
<tr>
<td>3. AS Finance reviewed:</td>
<td>Date:</td>
</tr>
<tr>
<td>4. IT reviewed (if IT related):</td>
<td>Date:</td>
</tr>
<tr>
<td>5. Contractor signed:</td>
<td>Date:</td>
</tr>
<tr>
<td>6. Submitted to Exec.:</td>
<td>Date:</td>
</tr>
<tr>
<td>7. Council approved (if necessary):</td>
<td>Date:</td>
</tr>
<tr>
<td>8. Executive signed:</td>
<td>Date:</td>
</tr>
<tr>
<td>9. Original to Council:</td>
<td>Date:</td>
</tr>
</tbody>
</table>

Last edited 02/15/18
MEMO:

TO:       Whatcom County Council
DATE:     May 11, 2018
FROM:     Rob Ney, Facilities Manager
RE:       Williamson Way Lease Agreement

Requested Action:
Please allow this memo to serve as a request for approval of the attached lease agreement between Whatcom County and the Port of Bellingham for the use of the land located 3720 Williamson Way.

Background and Purpose:
On April 24, 2018 the County Council approved Ordinance 2018-019 which included the budget supplemental request for the renovation of the county owned building located at 3720 Williamson Way. The purpose of the renovation is to enable the Facilities Management Division to relocate their offices. The 8,100 square foot building will accommodate the capacity issues faced by a growing division while utilizing a county-owned and maintained vacant building.

The Lease Agreement is an initial 5 year term with two (2) five year renewals. With Council approval, the agreement will be presented to the Port Commission on June 5th.
AIRPORT INDUSTRIAL PARK LEASE

THIS AIRPORT INDUSTRIAL PARK LEASE, hereinafter called Lease, is made and entered into this ____ day of __________________, 2018, by and between the PORT OF BELLINGHAM, a municipal corporation, hereinafter called Lessor, and WHATCOM COUNTY, a Washington County, hereinafter called Lessee.

ARTICLE I
Recitals

PRELIMINARY STATEMENT: Lessor is the owner of certain real property located at 3720 Williamson Way, Bellingham, Washington. The Lessee is owner of a certain building improvement located on said property owned by Lessor. The Lessor and Lessee are parties to a certain Interlocal Agreement for Real Estate Services Airport Industrial Park, dated May 17, 2017. It is the desire of both Lessor and Lessee to terminate the Interlocal Agreement and enter into a Lease agreement for said property. Upon execution of this Lease the Interlocal Agreement shall hereby be terminated.

Summary of Lease Terms and Definitions

Lessor: Port of Bellingham
Lessor’s Address: 1801 Roeder Avenue
Bellingham, WA 98225

Lessee: Whatcom County
Lessee’s Address: 311 Grand Avenue
Bellingham, WA 98225

Agreed Rentable Area: 31,248 square feet of real property described as Lease #4 of the Bellingham International Airport Binding Site Plan, with a street address of 3720 Williamson Way, Bellingham, Washington 98226

Use of Premises: Whatcom County Facility Management Program

Exhibits: Exhibit “A” General Binding Site Plan & Specific Binding Site Plan #1
Exhibit “B” Map of Premises
Exhibit “C” Existing Building Improvement

Commencement Date: Retroactively, June 1, 2018

Term: Five (5) years

Renewals: Two (2) consecutive five (5) year renewals

Base Rent: Months of *Monthly Lease Term Total
Years 1-2 $1,288.98
Years 3-5 $1,353.43

*Plus applicable Washington State Leasehold tax.
ARTICLE II
Premises, Term, and Renewal

2.1 **PREMISES:** Lessor, in consideration of the rents hereinafter reserved and of the covenants and conditions herein set forth to be performed by Lessee, does hereby demise and let unto Lessee, all of the real property described as **Lease #4 of the Bellingham International Airport Binding Site Plan**, described in Exhibits "A" and "B" above (hereinafter "Premises"). The Premises consist of an Agreed Rentable Area of 31,248 square feet of real property. The Premises does not include the building and associated improvements that are located on the Premises. The building and associated improvements are owned by the Lessee.

2.2 **TERM:** The term of this Lease ("Term") shall be for five (5) years beginning retroactively on June 1, 2018 ("Commencement Date"), and ending May 31, 2023 ("Termination Date"). If Lessee takes possession before the Commencement Date, Lessee shall pay the pro rata Rent for the period prior to the Commencement Date.

2.3 **RENEWAL:** Subject to the terms and conditions herein, Lessee shall have the right to renew this Lease for two (2) consecutive five (5) year periods by giving written notice of such intention to Lessor at least one-hundred twenty (120) days prior to the expiration of the term of this Lease or any renewal thereof. Lessee shall not be entitled to renew this Lease unless the Lease is in good standing at the time of renewal and the Lessee is not in default under the terms of this Lease or any other lease or agreement with the Lessor. The terms and conditions of any renewal shall be the same as set forth in this Lease, except that Base Rent shall be recalculated as provided herein, and the terms of this Lease shall be updated to be consistent with the terms and conditions then existing in the Lessor's standard Airport Industrial Park Agreement.

ARTICLE III
Compensation, and Rent Renegotiation

3.1 **RENT:** The term "Rent," as used herein, includes Base Rent, plus applicable Washington State leasehold excise tax, and other fees and charges assessed herein. Except as expressly provided elsewhere herein, Rent shall be paid without the requirement that Lessor provide prior notice or demand, and shall not be subject to any counterclaim, setoff, deduction, defense or abatement.

3.1.1 Rent shall be paid monthly in advance on or before the first (1st) day of each month beginning on the Commencement Date. A late charge of one percent (1%) per month will be assessed against past due Rent from the date such Rent-became due. Additionally, if Rent is not received by the fifth (5th) day of any month, Lessee shall pay Lessor an additional fee of $100 or five percent (5%) of the delinquent payment, whichever is greater, to defray costs of collecting and handling such late payment. All accrued interest and late charges shall be paid no later than the first (1st) day of the month following that month in which such interest or late charges accrued.

3.2 **RENT RENEGOTIATION:** Base Rent shall be subject to adjustment on June 1, 2023 and June 1, 2028 (hereinafter referred to as the "Adjustment Date"). The parties agree to renegotiate the amount of Rent payable to Lessor, and to agree on the amount at least ninety (90) days prior to the commencement of each succeeding five year period, (hereinafter "Renegotiation Deadline"). In no event will the Rent payable by Lessee be less than such Rent for the preceding lease year. If the parties cannot agree on the adjustment to the Rent before the
Renegotiation Deadline, then the Rent shall be determined according to the “Appraisal” section herein. The ROI to be used for each Rent adjustment shall be equal to the ROI then being used by the Lessor.

ARTICLE IV

Use of Premises, Condition of Property, Improvements, Removal of Property, Maintenance, Utilities, Federal Aviation Requirements, Fire Protection, and Off Street Parking

4.1 **LESSEE'S USE OF PREMISES:** Lessee shall use the Premises for the following purpose: Whatcom County Facility Management Program and for no other purpose (the “Authorized Use”).

4.1.1 Lessee shall be in default under this Lease if it: (i) ceases conducting the Authorized Use for any period of time exceeding thirty (30) days; or (ii) conducts any other business or activity on the Premises other than the Authorized Use without first obtaining a validly executed lease modification.

4.1.2 Notwithstanding the foregoing described use, the Premises shall not be used to store, distribute or otherwise handle flammable or dangerous materials, excepting only those which are necessary to conduct the Authorized Use. At the request of Lessor, Lessee shall provide a list of all flammable or dangerous materials stored or used on the Premises.

4.2 **CONDITION OF PROPERTY:** Lessee has inspected the Premises and accepts the Premises, including all existing improvements thereon, "as is" without further maintenance liability on the part of the Lessor, except as specifically noted herein. Lessee is not relying on any representations of Lessor as to condition, suitability, zoning restrictions, or usability, except Lessor’s right to grant a lease of the Premises. Lessee further agrees to keep the Premises and all improvements thereon continually in good condition throughout the term of the Lease. Lessee shall not allow any portion of the Premises to remain in a damaged, unworkable or other condition which compromises the condition of any portion of the Premises. Lessee further agrees to maintain the exterior appearance of all improvements on the Premises during the term of the Lease in as good of condition as they exist on the commencement of the Lease.

4.3 **IMPROVEMENTS:** The Lessee shall abide by the following terms with regard to improvements:

4.3.1 **Existing Improvements.** On the Commencement Date, the improvements shown on Exhibit “C” are located on the Premises. These improvements are the property of the Lessee. Lessee shall forever release and hold Lessor harmless from any and all claims relating to or resulting from such improvements.

4.3.2 **New Improvements.** Subject to obtaining Lessor’s written approval as hereafter described, Lessee may make and install, at its own expense, such tenant improvements (“Tenant Improvements”) as are normal and customary in connection with the Authorized Use set forth herein. Lessee’s contractor, if any, shall be subject to Lessor’s approval, which shall not be unreasonably withheld. Provided, however, Lessor reserves the right to condition its approval upon (i) compliance with Lessor’s development standards, and (ii) the Lessee providing satisfactory payment and/or performance bonds. Lessee shall submit plans to and obtain written approval from Lessor before commencing any improvements. Lessee shall have a reasonable
period of time to review such plans prior to issuing a decision. Lessor may charge Lessee a reasonable fee for staff, consultant or attorney time required to review the plans. All Tenant Improvements which are to be designated fixtures shall be so designated by Lessor upon Lessor’s approval of the plans for such improvements. All improvements by Lessee shall conformed to the requirements of the Americans With Disabilities Act, 42 USC 12111 et seq and the Rules, Regulations and Minimum Standards for the Bellingham International Airport.

4.3.3 Unauthorized Improvements. Any Tenant Improvements made on the Premises without Lessor’s prior written consent or which are not in conformance with the plans submitted to and approved by the Lessor (“Unauthorized Improvements”) shall immediately become the property of Lessor, unless Lessor elects otherwise. Regardless of the ownership of Unauthorized Improvements, Lessor may, at its option, require Lessee to sever, remove, and dispose of them, charge Lessee rent for the use of them, or both.

4.4 Removal of Personal Property and Tenant Improvements: Prior to the conclusion of the Lease, Lessee shall remove the following from the Premises:

a. All equipment;
b. All personal property;
c. All Tenant Improvements that are not designated fixtures;
d. Existing building improvement shown on Exhibit C.

4.4.1 If any of the foregoing items are not removed from the Premises by the conclusion of the Lease or when Lessor has the right of re-entry, then Lessor may, at its sole option, elect any or all of the following remedies:

a. To remove any or all of the items and to dispose of them without liability to Lessee. Lessor shall not be required to mitigate its damages, to dispose of the items in a commercially reasonable manner, or to make any effort whatsoever to obtain payment for such items. Lessee agrees to pay Lessor’s costs and damages associated with Lessee’s failure to remove such items, including, but not limited to, the following: storage, demolition, removal, transportation, and lost rent (collectively “Disposal Costs”); provided, however, that any net proceeds recovered by Lessor in excess of its Disposal Costs will be deducted from Lessee’s financial obligation set forth herein. Lessee’s financial obligations herein shall survive the termination of this Lease.
b. To have the title to any or all of such items revert to Lessor.
c. To commence suit against Lessee for damages or for specific performance.

4.4.2 The foregoing remedies are cumulative and Lessor shall not be required to elect its remedies.

4.5 Maintenance of Facilities: Maintenance and repair of the Premises and all improvements thereon is the sole responsibility of Lessee including, but not limited to, maintenance and repair of any damage to the Premises from unforeseen or unexpected events or Acts of God. Without limiting the generality of the foregoing, Lessee shall keep and maintain any improvements on the Premises in as good of condition as they existed on the commencement of this Lease, reasonable wear and tear excepted.
4.6 **UTILITIES**: Lessee will arrange and pay for all utility connections and services and distribution of such utilities within its leased Premises. At the conclusion of this Lease, Lessee shall arrange for such utility services to be terminated and for the final bill to be sent to Lessee. Lessee shall be liable for all utility charges that accrue if it fails to so terminate services.

4.7 **FEDERAL AVIATION REQUIREMENTS**: The Lessee agrees that its use of the Premises will be accomplished in accordance with the following covenants:

4.7.1 Lessee shall prevent any use of the Premises which would interfere with the landing or taking off of aircraft at the Bellingham International Airport, or otherwise constitute an airport hazard.

4.7.2 Lessee shall prevent any operation on the Premises which would produce electromagnetic radiations of a nature which would cause interference with any air navigational or communications aid now or in the future to be installed to serve the Bellingham International Airport, or which would create any interfering or confusing light or cause any restrictions to visibility at the airport.

4.7.3 Lessor retains the public right of flight for the passage of aircraft in the airspace above the surface of the Premises hereinbefore described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in said airspace, and for use of said airspace for landing on, taking off from or operating on the Bellingham International Airport.

4.7.4 Lessee understands that it is the policy of the U.S. Department of Transportation that minority business enterprises as defined in 49 CFR, Part 23, shall have the maximum opportunity to participate in the performance of this Lease as defined in 49 CFR, Section 23.5, and that this Lease is subject to 49 CFR, Part 23, as applicable. Lessee hereby assures that no person shall be excluded from participation in, denied the benefits of, or otherwise discriminated against in connection with 49 CFR, Part 23, on the grounds of race, color, national origin, or sex.

4.8 **FIRE PROTECTION**: The Lessee understands that the Lessor has no responsibility to provide fire protection for the Lessee's buildings, property or equipment located in or upon the leased Premises. It shall be the exclusive responsibility of the Lessee to provide for its own fire protection, including, but not limited to, promptly paying all fire district service charges when due. In this regard, the Lessee understands that it is the Lessee's responsibility and duty to include the value of its buildings, property, and equipment to appropriate County authorities for personal property tax purposes through which fire district service charges are paid. Failure of the Lessee to accurately list its improvements or promptly pay its fire district service charges when due, shall be a breach of this Lease and shall be grounds for the Lessor to terminate this Lease agreement. The Lessee shall promptly provide the Lessor with a copy of its personal property declaration within seven (7) days from the time such declaration is made to the Whatcom County Assessor.

4.9 **OFF STREET PARKING**: Lessee agrees to provide space for the parking of vehicles in the number necessary to comply with applicable regulations and otherwise to accommodate its normal business requirements on the Premises included within this Lease; and not rely on any public streets, rights-of-way or other properties not included in this Lease for the parking of said vehicles.
ARTICLE V
Miscellaneous Provisions

5.1 **CASUALTY LOSS OF LESSEE:** The parties hereto agree that the Lessor, its commissioners and employees, Lessor’s insurance carrier and the Lessor’s casualty policy shall not be responsible to the Lessee for any property loss or damage done to the Lessee’s property, whether real, personal or mixed, occasioned by reason of any fire, storm or other casualty whatsoever. It shall be the Lessee’s responsibility to provide its own protection and insurance against casualty losses of whatsoever kind or nature, regardless of whether or not such loss is occasioned by the acts or omissions of the Lessor, Lessee, third party, or act of nature.

5.2 **INSURANCE:** Lessee shall procure and maintain a comprehensive general liability policy or the equivalent self-insurance program covering all claims for personal injury (including death) and/or property damage (including all real and personal property located on the Premises) arising on the Premises or arising out of Lessee’s operations. The limits of liability shall be not less than One Million Dollars ($1,000,000.00) per occurrence and Two Million Dollars ($2,000,000.00) aggregate unless the Lessee requests and Lessor approves in writing, a lesser liability limit. Lessor may impose changes in the limits of liability: (i) at the same time as revaluation of the annual Rent; (ii) as a condition of approval of assignment or sublease of this Lease; (iii) upon any breach of the environmental liability provision herein; (iv) upon a material change in the condition of any improvements; or (v) upon a change in the permitted use. If the liability limits are changed, Lessee shall obtain new or modified insurance coverage within thirty (30) days after changes in the limits of liability are required by Lessor. The liability policies shall contain a cross-liability provision such that the policy will be construed as if separate policies were issued to Lessee and to Lessor.

5.2.1 The foregoing insurance policy shall name Lessor as an additional insured. Lessee shall provide certificates of insurance and, if requested, copies of any policy to Lessor. Receipt of such certificate or policy by Lessor does not constitute approval by Lessor of the terms of such policy. Furthermore, the policy of insurance required herein shall: (i) be written as a primary policy; (ii) expressly provide that such insurance may not be materially changed, amended or canceled with respect to Lessor except upon forty-five (45) days’ prior written notice from the insurance company to Lessor; (iii) contain an express waiver of any right of subrogation by the insurance company against Lessor and Lessor’s elected officials, employees or agents; (iv) expressly provide that the insurance proceeds of any loss will be payable notwithstanding any act or negligence of Lessee which might otherwise result in a forfeiture of said insurance; and (v) in regard to physical property damage coverage, expressly provide that all proceeds shall be paid jointly to Lessor and Lessee.

5.2.2 If Lessee fails to procure and maintain the insurance described above, Lessor shall have the right, but not the obligation, to procure and maintain substitute insurance and to pay the premiums. Lessee shall pay to Lessor upon demand the full amount paid by Lessor.

5.2.3 The Lessee believes and states that the insurance obligation herein does not exceed that which the Lessee would otherwise normally place upon itself and obtain in order to operate its business in a prudent manner.

5.3 **FINANCIAL SECURITY:** In compliance with the requirements of state law, Lessee agrees that it will secure the performance of the rental portion of this Lease by procuring and maintaining, during the term of this Lease, a corporate surety bond, or by providing other financial security satisfactory to Lessor (herein referred to as the "Bond") in an amount not less
than thirty three percent (33%) of the sum of annual Rent, plus state leasehold tax. The Bond
shall be in a form and issued by a surety company acceptable to Lessor and shall comply with
the requirements of Washington law. Lessee shall obtain such Bond and forward evidence
thereof to Lessor within fourteen (14) days of execution of this Lease, but in no event later than
the Commencement Date of this Lease. Failure to comply with this requirement shall be
grounds for termination of this Lease without notice by Lessor. Such Bond shall be kept always
in effect during the term of this Lease; failure to comply with this requirement shall render
Lessee in default. The Bond shall be increased annually to reflect any adjustments in annual
Rent.

5.3.1 Upon any default by Lessee in its obligations under this Lease, Lessor may
collect on the Bond to offset the liability of Lessee to Lessor. Collection on the Bond shall not
relieve Lessee of liability, shall not limit any of Lessor’s other remedies, and shall not reinstate or
cure the default or prevent termination of the Lease because of the default.

ARTICLE VI
Environmental Liability

6.1 ENVIRONMENTAL INDEMNIFICATION: Lessee shall defend (with legal counsel
suitable to Lessor), indemnify, and hold Lessor harmless from any and all claims, demands,
judgments, orders or damages resulting from Hazardous Substances on the Premises caused in
whole or in part by the activity of the Lessee, its agents, subtenants, or any other person or entity
on the Premises during any period of time that Lessee has occupied all or a portion of the
Premises during the term of this Lease or any previous lease or agreement. It is the intent of the
parties that Lessee shall be responsible and shall defend and hold Lessor harmless from any
Hazardous Substances that have or may occur on the Premises since Lessee first occupied the
Premises through this Lease or any previous lease or agreement with Lessor. The term
"Hazardous Substances," as used herein, shall mean any substance heretofore or hereafter
designated as hazardous under the Resource Conservation and Recovery Act, 42 USC Sec.
6901 et seq.; the Federal Water Pollution Control Act, 33 USC Sec. 1257 et seq.; the Clean Air
Act, 42 USC Sec. 2001 et seq.; the Comprehensive Environmental Response Compensation
and Liability Act of 1980, 42 USC Sec. 9601 et seq.; or the Hazardous Waste Cleanup-Model
Toxics Control Act, RCW 70.105D, all as amended and subject to all regulations promulgated
thereunder.

6.1.1 Lessee’s defense and indemnity obligations under this article are unconditional,
shall not be discharged or satisfied by Lessor’s re-entry of the Premises or exercise of any other
remedy for Lessee’s default under this Lease, shall continue in effect after any assignment or
sublease of this Lease, and shall continue in effect after the expiration or earlier termination of
this Lease.

6.1.2 Although Lessee shall not be liable for any Hazardous Substances that existed
on the Premises prior to the inception of this Lease, Lessee shall be responsible for the costs of
any environmental investigations or remediation arising from the development or use of the
Premises by Lessee, and Lessee hereby releases the Lessor from any contribution claim for
those costs. By way of example only, if the Lessee excavates soil on the Premises which
contains Hazardous Substances, then the Lessee will be responsible for the cost associated
with disposing of those soils.

6.2 CURRENT CONDITIONS AND DUTY OF LESSEE: Lessor makes no representation
about the condition of the Premises. Hazardous Substances may exist in, on, under, or above
the Premises. Lessee should, but is not required to, conduct environmental assessments or investigations of the Premises prior to or during this Lease to determine the existence, scope, and location of any Hazardous Substances. If there are any Hazardous Substances in, on, under or above the Premises as of the Commencement Date, Lessee shall exercise the utmost care with respect to the Hazardous Substances, the foreseeable acts or omissions of third parties affecting the Hazardous Substances, and the foreseeable consequences of those acts or omissions.

6.2.1 Prior to conducting any environmental investigation of the subsurface of the Premises, the Lessee shall provide prior written notice to the Lessor. Lessee shall provide the Lessor with the results of all such investigations.

6.3 **NOTIFICATION AND REPORTING:** Lessee shall immediately notify Lessor if Lessee becomes aware of any of the following:

a. A release or threatened release of Hazardous Substances in, on, under or above the Premises, any adjoining property, or any other property subject to use by Lessee in conjunction with its use of the Premises;

b. Any problem or liability related to or derived from the presence of any Hazardous Substance in, on, under or above the Premises, any adjoining property or any other property subject to use by Lessee in conjunction with its use of the Premises;

c. Any actual or alleged violation of any federal, state, or local statute, ordinance, rule, regulation, or other law pertaining to Hazardous Substances with respect to the Premises, any adjoining property or any other property subject to use by Lessee in conjunction with its use of the Premises; or

d. Any lien or action with respect to any of the foregoing.

6.3.1 Lessee shall, at Lessor’s request, provide Lessor with copies of any and all reports, studies or audits which pertain to environmental issues concerning the Premises, and which are or were prepared by or for Lessee and submitted to any federal, state or local authorities pursuant to any federal, state or local permit, license or law. These permits include, but are not limited to, any National Pollution Discharge and Elimination System permit, any Army Corps of Engineers permit, any State Hydraulics permit, any State Water Quality certification, or any Substantial Development permit.

**ARTICLE VII**

**Miscellaneous Provisions**

7.1 **APPRAISAL:** Whenever Land Rent or a component of the total Land Rent is to be determined by appraisal, the process in this article shall govern. Within seven (7) calendar days from the Renegotiation Deadline, Lessor and Lessee shall mutually agree upon a disinterested, MAI certified appraiser with at least ten (10) years’ experience appraising property in Whatcom County to perform an appraisal of the fair market land rental value for the applicable portion of the Premises. The appraiser’s costs shall be shared equally by the parties. The rental rate arrived at in the appraisal shall constitute the new Land Rent for that portion of the Premises, which shall be retroactive to the Adjustment Date.
7.1.1 If Lessor and Lessee cannot mutually agree upon an appraiser by the end of the seventh (7th) day as set forth above, then each party shall select an MAI certified appraiser to perform an appraisal of the fair market land rental value of the applicable portion of the Premises. Each party shall bear the costs of its own appraisal. The appraisals shall be completed no later than ninety (90) days after the Renegotiation Deadline (hereinafter this date shall be referred to as the "Appraisal Completion Date"). The average of the two (2) appraisals shall constitute the new Land Rent for that portion of the Premises and shall be retroactive to the Adjustment Date. If either of the appraisals is not timely completed on or before the Appraisal Completion Date, and unless there were circumstances beyond the appraisers' control that prevented its timely completion, then the rental rate established in the appraisal that was timely completed shall constitute the new Land Rent for the applicable portion of the Premises.

7.2 **LESSEE WILL OBTAIN PERMITS**: Lessee agrees to obtain and comply with all necessary permits for any leasehold improvement. If Lessee fails to obtain and comply with such permits, then Lessee accepts full responsibility for any and all costs incurred by Lessor, including actual attorneys' fees. In this way, Lessee agrees to be solely responsible for all damages, costs, and expenses incurred as a result of Lessee’s failure to fully comply with any necessary permit process and requirements.

7.3 **LIENS**: Lessee agrees to keep the Premises described herein free and clear of all liens and charges whatsoever. Lessee shall not allow any mechanics’ and materialmen’s or other liens to be placed upon the leased Premises. If such a lien is placed or recorded, Lessee shall cause it to be discharged of record, at its own expense, within ten (10) days of Lessor’s demand. Failure to comply with Lessor’s demand within ten (10) days shall be a default under the terms of this Lease.

7.4 **INDEMNIFICATION AND HOLD HARMLESS**: The Lessee agrees that it will defend (with legal counsel acceptable to Lessor), indemnify and hold harmless the Lessor, its officers, employees and agents from any and all demands, claims, judgments or liability for loss or damage arising as a result of accidents, injuries or other occurrences on the Premises or on Lessor’s property, occasioned by either the negligent or willful conduct of the Lessee, its agents, or any person or entity holding under the Lessee, or any person or entity on the Premises or on the Lessor’s property as a result of Lessee’s activity, regardless of who the injured party may be.

7.4.1 Limited Waiver of Title 51 RCW. The foregoing indemnification and hold harmless obligation shall include, but is not limited to, all claims against the Lessor by an employee or former employee of the Lessee. For this purpose, the Lessee expressly waives, as respects the Lessor and to the fullest extent permitted by law, all immunity and limitation on liability under any industrial insurance law or scheme, including Title 51 RCW, or other workers compensation act, disability act, or other employees benefits of any act of any state or federal jurisdiction which would otherwise be applicable in the case of such a claim.

7.5 **LAWS AND REGULATIONS**: Lessee agrees to conform to and abide by all lawful rules, codes, laws, regulations and Port policies in connection with its use of the Premises and the construction of improvements and operation of Lessee’s business thereon and not to permit said Premises to be used in violation of any lawful rule, code, law, regulation, Port policy, or other authority.

7.5.1 Lessee’s obligations herein shall include, but in no way be limited to, the obligation to comply with all state and federal environmental laws and regulations. The Lessee
covenants and agrees that it will indemnify and hold harmless the Lessor from any fine, penalty, or damage which may be imposed by any lawful authority, which may arise as a result of the Lessee’s failure to comply with the obligations of this paragraph.

7.6 **WASTE AND REFUSE:** Lessee agrees not to allow conditions of waste and refuse to exist on the Premises and to keep the Premises in a neat, clean, and orderly condition and to be responsible for all damages caused to the Premises by Lessee, its agents or any third party on the Premises.

7.7 **TAXES AND ASSESSMENTS:** Lessee agrees to pay all taxes assessed against the leasehold interest and a pro rata share of any assessments made against the Premises for installation of public utility systems, based upon a reasonable overall sharing program among all properties within the assessment area.

7.8 **SIGNS:** No signs shall be installed without the prior written permission of Lessor. In the event that an unauthorized sign has been installed and after notification to remove the sign by the Lessor, Lessee shall pay the Lessor a penalty of $100 per day for each day the sign remains in place after such notification. The penalty shall automatically resume, without notice, if the sign is reinstalled. The penalty accrued shall be paid with the next month’s Base Rent. In addition, the Lessor reserves the right to provide notice of and treat an unauthorized sign as a non-monetary default of this Lease.

7.9 **EQUAL OPPORTUNITY:** Lessee agrees that in the conduct of activities on the Premises, it will be an equal opportunity employer in accordance with Title VII of the Civil Rights Act of 1964, 42 USC §2000 et seq. and shall comply with all requirements of the ADA.

7.10 **LITIGATION:** In the event Lessor shall be made a party to any litigation commenced by or against Lessee (other than actions commenced by Lessee or Lessor concerning the interpretation or enforcement of any of the terms and conditions of this Lease), then Lessee agrees to pay all costs, expert witness fees, and attorneys’ fees, including all customary charges incurred by Lessor in connection with such litigation. However, if Lessor is made a party defendant and Lessee undertakes the defense of the action on behalf of Lessor, then no obligation for costs and attorneys’ fees will be chargeable against Lessee by Lessor for costs arising out of such undertaking. Lessee also agrees to pay all costs and attorneys’ fees incurred by Lessor in enforcing any of the covenants, agreements, terms, and provisions of this Lease.

7.11 **ASSIGNMENT OF LEASE:** Lessee shall not assign, rent or sublease any portions of this Lease or any extension thereof, without the prior written consent of Lessor, and no rights hereunder in or to said Premises shall pass by operation of law or other judicial process or through insolvency proceedings. Otherwise, the rights and obligations hereof shall extend to and be binding upon their respective successors, representatives and assigns, as the case may be. Lessee shall furnish Lessor with copies of all such subassignment, sublease, or rental documents. For the purposes of this Lease, any change of ownership including sale, liquidation or other disposition of some or all of the corporate stock will be considered an assignment. Should the Lessor consent to an assignment made by the Lessee for the purposes of obtaining a loan or other consideration from a third party, then the Lessor’s consent shall be made in accordance with the consent to assignment document used by Lessor for these specific assignments. A copy of this consent form shall be provided by Lessor upon request of Lessee.
7.11.1 If Lessor refuses to consent to an assignment, Lessee's sole remedy shall be the right to bring a declaratory action to determine whether Lessor was entitled to refuse such assignment under the terms of this Lease.

7.11.2 No consent by Lessor to any assignment or sublease shall be a waiver of the requirement to obtain such consent with respect to any other or later assignment or sublease. Acceptance of Rent or other performance by Lessor following an assignment or sublease, whether or not Lessor has knowledge of such assignment or sublease, shall not constitute consent to the same nor a waiver of the requirement to obtain consent to the same.

7.11.3 A minimum handling and transfer fee ("Transfer Fee Deposit") of Three Hundred Dollars ($300.00) shall be payable by Lessee to Lessor if Lessee requests the Lessor's consent to a proposed assignment (including an assignment to a creditor for security purposes), sublease or modification of this Lease. The Lessor reserves the right to increase the Transfer Fee Deposit up to Five Hundred Dollars ($500.00) if, in Lessor's sole judgment, the transaction will necessitate the expenditure of substantial time and expense on the part of Lessor. Such Transfer Fee Deposit shall be submitted to the Lessor at the same time that Lessee requests the Lessor's consent to the proposed sublease, assignment or modification. If the Lessor's reasonable and customary attorneys' fees exceed the Transfer Fee Deposit, then Lessee agrees to reimburse the Lessor for such additional reasonable and customary attorneys' fees. Lessee's failure to remit this additional amount within sixty (60) days of the mailing of the notice of such charges shall constitute a default under this Lease. Notwithstanding anything to the contrary herein, the Lessee shall not be obligated to reimburse the Lessor in any case where an assignment, sublease, or modification is not accomplished due to total refusal on the part of Lessor to grant its consent to the request.

7.11.4 If, pursuant to any assignment or sublease, Lessee receives rent, either initially or over the term of the assignment or sublease, in excess of the Rent called for hereunder, or in the case of a sublease, a portion of the Premises in excess of such Rent fairly allocable to such portion, after appropriate adjustments to assure that all other payments called for hereunder are appropriately taken into account, Lessee shall pay to Lessor, as additional rent expenses hereunder, fifty percent (50%) of the excess of each such payment of Rent received by Lessee after its receipt.

7.11.5 If this Lease is assigned, or if the underlying beneficial interest of Lessee is transferred, or if the Premises or any part thereof is sublet or occupied by anybody other than Lessee, Lessor may collect Rent from the assignee, subtenant or occupant and apply the net amount collected to the Rent herein reserved, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, subtenant or occupant as tenant, or a release of Lessee from the further performance by Lessee of covenants on the part of Lessee herein contained. No assignment or subletting shall affect the continuing primary liability of Lessee (which, following assignment, shall be joint and several with the assignee), and Lessee shall not be released from performing any of the terms, covenants, and conditions of this Lease.

7.11.6 Notwithstanding any assignment or sublease, or any indulgences, waivers or extensions of time granted by Lessor to any assignee or sublessee or failure of Lessor to take action against any assignee or sublease, Lessee hereby agrees that Lessor may, at its option, and upon not less than three (3) days' notice to Lessee, proceed against Lessee without having taken action against or joined such assignee or sublessee, except that Lessee shall have the
benefit of any indulgences, waivers, and extensions of time granted to any such assignee or sublessee.

7.12 **REIMBURSEMENT FOR EXPENSES:** Should the Lessee seek to assign this Lease to any creditor as security for a loan or forbearance from such creditor, or attempt to otherwise assign, sublease, or modify this agreement between the parties during the term of this Lease or any renewal thereof, then the Lessee agrees to reimburse the Lessor for all customary and reasonable attorney fees paid by the Lessor for the review and opinion of such attorney acting on the request. A failure to reimburse the Lessor within 60 days of the mailing of notice of such charges shall constitute a default under the terms of this lease. Notwithstanding anything to the contrary herein, the Lessee shall not be obligated to reimburse the Lessor in any case where an assignment, sublease, or modification is not accomplished due to total refusal on the part of the Lessor to grant its consent to the request.

7.13 **TERMINATION:** Upon termination of this Lease or any extension thereof, whether by expiration of the stated term or sooner termination thereon, as herein provided, Lessee shall surrender to Lessor the Premises peaceably and quietly. Lessee shall restore the Premises to the condition existing at the time of initiation of this Lease, except for: (i) normal wear and tear, and (ii) any improvements which Lessor permits to remain on the Premises.

7.14 **DEFAULT, CROSS DEFAULT, AND REMEDIES:** Failure to pay Rent or any other monetary obligations by the first day of each month shall constitute a default under the terms of this Lease. If Lessee is in default in the payment of Rent or other monetary obligations occurs then, at Lessor’s sole option, upon three (3) days’ written notice, this Lease may be terminated and Lessor may enter upon and take possession of the Premises. Without limiting the generality of the foregoing, Lessee expressly authorizes Lessor to obtain a prejudgment writ of restitution in the event of default by Lessee. This remedy is in addition to and is not exclusive of any other remedies provided either by this Lease or by law.

7.14.1 If Lessee shall fail to perform any term or condition of this Lease, other than the payment of Rent or other monetary obligations, then Lessor, upon providing Lessee thirty (30) days’ written notice of such default, may terminate this Lease and enter upon and take possession of the Premises. This remedy is in addition to and is not exclusive of any other remedies provided either by this Lease or by law.

7.14.2 If within any one (1) year period, Lessor serves upon the Lessee three notices requiring Lessee either to: (i) comply with the terms of this Lease or to vacate the Premises or (ii) pay Rent or vacate (collectively referred to herein as "Default Notices"), then Lessee shall, upon a subsequent violation of any term of this Lease by the Lessee (including failure to pay Rent), be deemed to be in unlawful detainer, and Lessor may, in addition to any other remedies it may have, immediately terminate the Lease and/or commence an unlawful detainer action without further notice to Lessee.

7.14.3 The following shall also constitute a default under the terms of this Lease: A default by Lessee under any other agreement or lease with the Lessor; insolvency of Lessee; an assignment by Lessee for the benefit of creditors; the filing by Lessee of a voluntary petition in bankruptcy; an adjudication that Lessee is bankrupt or the appointment of a receiver of the properties of Lessee; the filing of an involuntary petition of bankruptcy and failure of Lessee to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levying of execution on the leasehold interest; and failure of Lessee to secure a discharge of the attachment or release of the levy of execution within ten (10) days.
7.14.4 A default under this Lease shall constitute a default under any other lease or agreement which Lessee has with Lessor (hereinafter such other agreements shall be referred to as "Collateral Agreements"). Likewise, any material breach or default under a Collateral Agreement shall be deemed a material breach or default under the terms of this Lease. If a Collateral Agreement is terminated for a material breach or default of Lessee, then Lessor shall, without limiting any other remedies it may have, be entitled to terminate this Lease upon five (5) days' written notice to Lessee.

7.14.5 In addition to the foregoing remedies specified in this article, Lessor may exercise any remedies or rights under the laws of the State of Washington. Under no circumstances shall Lessor be held liable in damages or otherwise by reason of any lawful re-entry or eviction. Lessor shall not, by any re-entry or other act, be deemed to have accepted any surrender by Lessee of the Premises or be deemed to have otherwise terminated this Lease or to have relieved Lessee of any obligation hereunder.

7.14.6 Lessor shall be under no obligation to observe or perform any covenant of this Lease after the date of any material default by Lessee unless and until Lessee cures such default.

7.14.7 A fee of Five Hundred Dollars ($500.00) shall be assessed to Lessee for each Default Notice issued to Lessee to defray the costs associated with preparing, issuing, and serving such notice. This fee shall be payable on the first (1st) day of the month following the issuance of the notice.

7.15 **NON WAIVER:** Neither the acceptance of Rent nor any other act or omission of Lessor after a default by Lessee shall operate as a waiver of any past or future default by Lessee, or to deprive Lessor of its right to terminate this Lease, or be construed to prevent Lessor from promptly exercising any other right or remedy it has under this Lease. Any waiver by Lessor shall be in writing and signed by Lessor in order to be binding on Lessor.

7.16 **NOTICES:** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing addressed to the other party at the addresses as follows:

**TO LESSOR:**
Port of Bellingham
Post Office Box 1677
Bellingham, Washington, 98227-1677

**TO LESSEE:**
Whatcom County
311 Grand Avenue
Bellingham, WA 98225

or such address as may have been specified by notifying the other party of the change of address. Notice shall be deemed served on the date of actual delivery or the first attempted delivery as shown on the return receipt if mailed with the United States Postal Service by certified mail, return receipt requested.

7.17 **AGENT FOR SERVICE:** Lessee agrees that if Lessee is in unlawful detainer, pursuant to Chapter 59.12 RCW, and Lessor is unable to serve Lessee with the unlawful detainer pleadings after one service attempt, then Lessor shall be deemed to have complied with the
service requirements of Chapter 59.12 RCW if it mails such pleadings via certified mail to the address set forth in the notice section of this Lease and posts such pleadings in a conspicuous location on the Premises. Service shall be deemed complete on the third (3rd) day following the day of posting or day of mailing, whichever is later.

7.18 **SECURITY**: Lessee specifically acknowledges that Lessor has no duty to provide security for any portion of the Premises or surrounding areas. Lessee assumes sole responsibility and liability for the security of itself, its employees, customers, and invitees, and their respective property in or about the Premises. Lessee agrees that to the extent Lessor elects to provide any security, Lessor is not warranting the effectiveness of any such security personnel, services, procedures or equipment and that Lessee is not relying and shall not hereafter rely on such security personnel, services, procedures or equipment. Lessor shall not be responsible or liable in any manner for failure of any such security personnel, services, procedures or equipment to prevent or control, or apprehend anyone suspected of personal injury or property damage in, on or around the Premises.

7.19 **QUIET ENJOYMENT**: Lessor acknowledges that it has ownership of the Premises and that it has the legal authority to lease the Premises to Lessee. Lessor covenants that Lessee shall have quiet enjoyment of the Premises during the term of this Lease so long as the terms are complied with by Lessee and subject to Lessor’s right of entry onto the Premises as set forth herein.

7.19.1 The Lessor reserves the right to grant easements and other land uses on the Premises to others when the easement or other land uses applied for will not unduly interfere with the use to which the Lessee is putting the Premises, or interfere unduly with the approved plan of development for the Premises. No easement or other land uses shall be granted to third parties, until damages to the leaseholder have been dealt with appropriately, or waiver signed by the Lessee.

7.19.2 Lessee understands that various federal agencies, including the Department of Homeland Security and U.S. Coast Guard, have the authority to restrict access to certain areas on property owned by Lessor in order to counter a terrorist or other threat. Such restrictions could impact Lessee’s ability to access the Premises for an indefinite period of time. Since such restrictions on access are outside the control of Lessor, Lessee agrees that such interruptions shall not be deemed a violation of this Lease or the Covenant of Quiet Enjoyment.

7.20 **LESSOR MAY ENTER PREMISES**: It is agreed that the duly authorized officers or agents of Lessor may enter to view said Premises at any time, and if the business or normal function of Lessor should at any time require that it enter upon the Premises to perform any work or make any improvements, it may do so, but not in such manner as to materially injure Lessee with its normal and usual operation.

7.21 **TIME**: It is mutually agreed and understood that time is of the essence of this Lease and that a waiver of any default of Lessee shall not be construed as a waiver of any other default.

7.22 **INTERPRETATION**: This Lease has been submitted to the scrutiny of the parties hereto and their counsel, if desired. In any dispute between the parties, the language of this Lease shall, in all cases, be construed as a whole according to its fair meaning and not for or against either the Lessor or the Lessee. If any provision is found to be ambiguous, the language shall not be construed against either the Lessor or Lessee solely on the basis of which party drafted the provision. If any word, clause, sentence, or combination thereof for any reason is declared
by a court of law or equity to be invalid or unenforceable against one party or the other, then such finding shall in no way affect the remaining provisions of this Lease.

7.23 **HOLDING OVER:** If the Lessee remains in possession of said Premises after the date of expiration of this Lease without Lessor's prior written consent, such holding over shall constitute and be construed as tenancy at sufferance only, at a monthly rent equal to one hundred fifty percent (150%) of the Base Rent owed during the final month of the Term of this Lease and otherwise upon the terms and conditions in this Lease. If Lessee holds over with Lessor's prior written consent, then until such time as a new written Lease is executed by the parties hereto, Lessee shall continue to make payments to Lessor on a month-to-month basis as provided for in this Lease. Such holdover tenancy may be terminated by either party at the end of any such monthly period by sending written notice not less than five (5) days before the end of such period. Such holdover tenancy shall be subject to all terms and conditions contained herein.

7.24 **SURVIVAL:** All obligations of the Lessee, as provided for in the Lease, shall not cease upon the termination of this Lease and shall continue as obligations until fully performed. All clauses of this Lease, which require performance beyond the termination date, shall survive the termination date of this Lease.

7.25 **GOVERNING LAW:** This Lease and the right of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Washington, and the parties agree that in any such action jurisdiction and venue shall lie exclusively in Whatcom County, Washington.

7.26 **ESTOPPEL CERTIFICATES:** At Lessee's request, Lessor agrees to execute and deliver to Lessee or its lender(s), a customary estoppel certificate in a form acceptable to the Lessor which sets forth the following information: (i) the terms and conditions of this Lease, (ii) the status of the Rent payments under the Lease; and (iii) Lessor's knowledge of any breaches or anticipated breaches of the Lease. Lessor shall have no obligation to execute an estoppel certificate which requests any information other than as set forth above. Lessee agrees to reimburse the Lessor for all attorneys' fees paid by Lessor for the review and opinion of such attorney acting on the request for such estoppel certificate and in negotiating acceptable language in the estoppel certificate. A failure to reimburse Lessor within sixty (60) days of the mailing of notice of such charges shall constitute a default under the terms of this Lease.

7.27 **ATTORNEYS:** In the event the Premises are sold, Lessee shall attorn to the purchaser upon the sale provided that the purchaser expressly agrees in writing that, so long as Lessee is not in default under the Lease, Lessee's possession and occupancy of the Premises will not be disturbed and that such purchaser will perform all obligations of Lessor under the Lease.

7.28 **ENTIRE AGREEMENT:** This Lease contains all of the understandings between the parties. Each party represents that no promises, representations or commitments have been made by the other as a basis for this Lease which have not been reduced to writing herein. No oral promises or representations shall be binding upon either party, whether made in the past or to be made in the future, unless such promises or representations are reduced to writing in the form of a modification to this Lease executed with all necessary legal formalities by the Commission of the Port of Bellingham.

7.29 **VALIDATION:** IN WITNESS WHEREOF, Lessor has caused this instrument to be signed by its President and Secretary by authority of the Commission of the Port of Bellingham,
and this instrument has been signed and executed by Lessee, the day and year first above written.

LESSEE:  
WHATCOM COUNTY
By: ________________________
Print Name: ________________________
Its: ________________________

LESSOR:  
PORT OF BELLINGHAM
President
Secretary
STATE OF WASHINGTON:  ss
COUNTY OF WHATCOM:

ON THIS _____ day of ________________, 2018, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared ______________ and ______________, known to me to be the President and Secretary of the PORT OF BELLINGHAM, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Name (Print) ________________________
NOTARY PUBLIC, in and for the State of Washington, residing at Bellingham
My Commission expires: ____________

STATE OF WASHINGTON:  ss
COUNTY OF WHATCOM:

ON THIS _____ day of ________________, 2018, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared ______________ known to me to be the ______________ of WHATCOM COUNTY, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Name (Print) ________________________
NOTARY PUBLIC, in and for the State of Washington, residing at ____________
My Commission expires: ____________
EXHIBIT B
Map of Premises
### SQUARE FOOT COSTS
1. Parcel Number
2. Property Address
3. DBA

### IMPROVEMENT DESCRIPTION
4. Occupancy
   a) Section
   b) Page
5. Building Class
6. Building Quality
7. Exterior Wall
8. Stories
9. Height per Story
10. Average Floor Area
11. Bldg. Perimeter/No. of Units
12. Year of Construction
13. Condition

### SQUARE FOOT REFINEMENTS
15. HVAC Adjustment
16. Elevator Deduction
17. Misc. Adjustment
18. Total Lines 14-17

### HEIGHT AND SIZE REFINEMENTS
19. No. of Stories Multiplier
20. Story Height Multiplier
21. Area-Perimeter Multiplier
22. Combined Ht. & Size Multiplier

### FINAL CALCULATIONS
23. Refined Sq. Ft. Costs
24. Current Cost Multiplier
25. Local Multiplier
26. Final Sq. Ft. Cost
27. Total Sq. Footage
28. Base Replacement Cost
29. Lump Sum Adjustments
30. Base Replacement Cost
31. Depreciation Percentage
32. Depreciation Amount
33. Depreciated Cost

### TOTAL OF ALL SECTIONS
34. Income Code
35. Total Replacement Cost
36. Total Depreciated Cost
37. TOTAL ASSESSED VALUE

#### NOTES:
Amendments to WCC 8.11, Solid Waste Recycling and Collection District and WCC 8.10, Solid Waste and Residential Recycling Collection regarding Solid Waste Collection in Point Roberts, WA.

ATTACHMENTS:
1) Memo to Executive, 2) Draft Ordinance, 3) Exhibit A: Amendment to WCC 8.11, Solid Waste Recycling and Collection District, 4) Exhibit B: Amendment to WCC 8.10, Solid Waste and Residential Recycling Collection

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

It was requested on May 8, 2018 to introduce for public hearing amendments to WCC 8.11, Solid Waste Recycling and Collection District and WCC 8.10, Solid Waste and Residential Recycling Collection regarding solid waste collection in Point Roberts, WA. The amendments would remove the exemption provision for mandatory curbside collection, require monthly participation in curbside collection at a minimum level of service, and collect payment for monthly curbside collection as a fee on the annual property tax statement. The purpose is to protect human health and the environment by increasing levels of service, reducing costs, reducing illegal dumping, increasing recycling rates and ensuring stability and continuity of service provision in an area of low density, high seasonal occupancy and high operational costs.

The proposed amendments were not introduced for public hearing, and a request was made for additional discussion in committee.

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Regina A. Delahunt, Director
DATE: May 11, 2018
SUBJECT: Proposed Amendments to WCC 8.11, Solid Waste Recycling and Collection District and WCC 8.10, Solid Waste and Residential Recycling Collection regarding Solid Waste Collection in Point Roberts

It was requested on May 8, 2018, to introduce for public hearing the attached proposed amendments to WCC 8.11, Solid Waste Recycling and collection District and WCC 8.10, Solid Waste and Residential Recycling Collection regarding solid waste collection in Point Roberts. Council elected to not introduce for public hearing, and requested additional discussion nin committee.

Background and Purpose

In Point Roberts, low economy of scale, high operating costs, high seasonal occupancy rates and contradictory regulatory mechanisms result in challenges to providing quality levels of solid waste services at acceptable costs. This, in turn, increases illegal dumping and illegal cross border disposal, and threatens the actual stability and continuity of service provision. As a result, in 2009 the service provider discontinued services due to lack of economic viability. The Washington Utilities and Transportation Commission (WUTC), in its 2010 Final Order, attributed this specifically, in large part, to existing local regulatory provisions, which currently still affect services, and recommended review of these provisions. Since May, 2016 solid waste program staff have been meeting with the Point Roberts Community Advisory Committee (PRCAC) and the community to conduct such a review. The proposed amendments reflect the recommendations of PRCAC and staff.

Recommendations

It is recommended that the proposed draft amendments to ordinance be approved for introduction for public hearing. Please call Jeff Hegedus at x6044 if there are any questions. Thank you.
ORDINANCE NO. ________

AMENDMENTS TO WCC 8.11, SOLID WASTE RECYCLING AND COLLECTION
DISTRICT AND WCC 8.10, SOLID WASTE AND RESIDENTIAL RECYCLING
COLLECTION REGARDING SOLID WASTE COLLECTION IN POINT ROBERTS, WA

WHEREAS, as per RCW 81.77, Solid Waste Collection Companies and WAC 480-70,
Solid Waste and/or Refuse Collection Companies, the Washington Utilities and
Transportation Commission (WUTC) is the jurisdictional regulatory authority for all solid
waste collection companies in Washington State; and,

WHEREAS, WUTC by law regulates solid waste collection companies as ‘investor-
owned utilities’ subject to rigorous tariff-based services and rate structure oversight, with
annual financial reporting and targeted fixed rates of return; and,

WHEREAS, in 2009 the solid waste collection company operating in Point Roberts
ceased to be economically viable and discontinued collection services; and,

WHEREAS, in the 2010 WUTC Final Order, Docket TG-081576, WUTC specifically
identified the County provision for exemption from mandatory collection services as a
primary contributing factor to the discontinuation of services in Point Roberts, and strongly
recommended a review of local regulatory requirements; and,

WHEREAS, provision of solid waste collection in Point Roberts continues to be
marginally economically viable, with repeat discontinuation of services being a probable
outcome; and,

WHEREAS, as a result of the 2010 WUTC Final Order, the approved 2016 Whatcom
County Comprehensive Solid and Hazardous Waste Management Plan states that a review of
solid waste collection in Point Roberts will be conducted; and,

WHEREAS, in May 2016 staff engaged with the Point Roberts Community Advisory
Committee (PRCAC) to conduct the review, which was subsequently comprised of an initial
on-line community solid waste survey, fourteen PRCAC meeting discussions, nine PRCAC
staff presentations, an informational mailer to 2,300 property owners, and a Town Hall
meeting; and,

WHEREAS, as a result of this review and public process, PRCAC recommends 1)
removal of the existing provision for exemption from collection services, 2) requiring
participation in collection services at a minimum service level of twice monthly pickup of a
32 gallon can and source separated recyclables, and 3) including the WUTC approved
monthly service charge as a fee on the annual property tax statement; and,

WHEREAS, staff concurs that these recommendations are protective of human
health and the environment by increasing levels of service, reducing costs, reducing illegal
dumping, increasing recycling rates, and ensuring stability and continuity of service
provision in a challenging area of low density, high seasonal occupancy and high operational
costs; and,

WHEREAS, as per WCC 8.11, Solid Waste Recycling and Collection District, the
Whatcom County Council is the governing body of the recycling and collection district; and,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that
WCC 8.11, Solid Waste Recycling and Collection District is amended as shown in Exhibit A
attached hereto and that WCC 8.10, Solid Waste and Residential Recycling Collection is
amended as shown in Exhibit B attached hereto.

ADOPTED this ____ day of __________, 2018.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

________________________
Dana Brown-Davis, Clerk of the Council

________________________
Barry Buchanan, Chair

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

APPROVED AS TO FORM:

________________________
Civil Deputy Prosecutor

________________________
Jack Louws, County Executive

(  ) Approved     (  ) Denied

Date Signed: ____________________
EXHIBIT A

Chapter 8.11
SOLID WASTE RECYCLING AND COLLECTION DISTRICT

Sections:
8.11.010 District created – Determinations and findings.
8.11.020 Collection mandatory – Starting date.
8.11.030 Procedure to obtain exemption.
8.11.040 Enforcement – Civil penalty.
8.11.050 Governing body designated – Election.
8.11.060 Severability.

8.11.010 District created – Determinations and findings.
The Whatcom County solid waste recycling and collection district (the “district”) is hereby created to make solid waste and recycling collection mandatory in Whatcom County in furtherance of the objectives of the county’s plan. The district is formed, in part, in light of the formation of a solid waste disposal district pursuant to RCW Chapter 36.58 and Chapter 8.13. The county council has determined that the unincorporated areas of the county cannot meet their solid waste management objectives, including recycling goals, without the formation of a collection district. The recycling and collection district shall include all unincorporated areas except the Diablo/Newhalem area of Whatcom County and shall be implemented compatibly with cities and towns which require mandatory collection within their limits, all as provided in interlocal agreements executed with the county. All municipalities in the county have executed interlocal agreements with the county as shown in Appendix A of the ordinance codified in this chapter, which appendix is incorporated herein by reference. The county council in forming the recycling and collection district determines and finds:

A. All residences and businesses within the county are beneficiaries of the county solid waste and recycling management program and receive substantial and essential public service by having available on a continuing and standby basis healthful, safe and reliable solid waste disposal facilities;

B. The county has experienced increasing health and safety problems due to improper handling of solid waste. These problems include but are not limited to air pollution, litter and possible groundwater contamination. Requiring that transportation and disposal of solid waste be
performed by qualified providers of collection service in compliance with the law and regulations
is necessary for the immediate protection of the public health-and safety;
C. The state has set waste reduction and recycling as the highest priorities in managing solid
waste streams. In order to develop workable programs of waste reduction and recycling, the
county and municipalities need mandatory collection to make curbside collection and other
source separation feasible;
D. The cost of operating Whatcom County’s solid waste and recycling management program
may be met in part by imposing an excise tax on the charges paid for solid waste collection by
each residential dwelling and by each business or institution in the taxing district, as authorized
by Chapter 8.13; and
E. Those who knowingly fail to comply with the requirements of this chapter shall be liable as
provided below for a civil penalty and for related attorneys’ fees and costs in order to reduce the
environmental degradation and public health risks associated with noncompliance. (Ord. 90-96
§ 1).

8.11.020 Collection mandatory – Starting date.
Solid waste and recycling collection shall become mandatory for owners of all developed
property within the recycling and collection district on a date which the county executive has
certified for implementation of the mandatory collection program. Such date shall be determined
by the county executive after consultation with staff of the solid waste division, who shall have
consulted with haulers, concerning the administrative feasibility of implementation. Such date
shall occur on the first day of a month, and shall not be sooner than the first day of the month
following the approval of the ordinance codified in this chapter, nor later than one year following
such approval. (Ord. 90-96 § 2).

8.11.030 Procedure to obtain exemption.
A. At least 60 days prior to the date of implementation of mandatory solid waste and recycling
collection, the solid waste division shall provide reasonable notice to all residences and
businesses that mandatory collection will be implemented. Such notice shall state how requests
for exemption may be filed. Such notice shall be issued in coordination with certificated haulers.
B. Any person who wishes an exemption from the provisions or application of this chapter may
file an affidavit with the solid waste manager which states substantively as follows:

    I swear or affirm that I should be exempt from the requirements of universal
    recycling and solid waste collection because I am disposing of my waste in
an environmentally sound way.
This affidavit is subject to periodic verification by the solid waste manager or his/her designee. 
**Effective January 1, 2019 requests for exemptions for single-family residences and multi-family dwellings located in Point Roberts will not be approved, and existing exemptions in Point Roberts will terminate.**

C. Within 30 days after implementation of mandatory collection, the solid waste manager shall provide a report to the county executive containing findings on the number of exemptions that have been requested, the grounds stated for such exemptions, and the actions taken on the requests. Within 60 days after implementation of mandatory collection, the county executive shall report the findings to the county council, together with any recommendations for further legislative action on exemptions which the county executive believes are appropriate. (Ord. 90-96 § 3).

**8.11.040 Enforcement – Civil penalty.**

A. If any residence, business, or institution, not otherwise exempt from mandatory collection, refuses to pay for such mandatory collection, the county may, upon the request of a certificated hauler, through the prosecuting attorney’s office commence appropriate action to enforce the provisions of this chapter. The prevailing party shall be entitled to an award of reasonable attorney’s fees and costs in any such action.

B. Any person who knowingly fails to subscribe to or pay for solid waste and recycling collection service without having obtained an exemption shall be liable in addition to actual damages, for a penalty to the county in an amount equal to any past due bill for solid waste and recycling collection service not to exceed $500.00, plus an additional penalty of not less than $100.00 nor more than $200.00 which shall not be suspended or deferred. (Ord. 90-96 § 4).

**8.11.050 Governing body designated – Election.**

The Whatcom County council shall be the governing body of the recycling and collection district. The electors of said district shall be all registered voters residing within the district. (Ord. 90-96 § 5).

**8.11.060 Severability.**

The invalidity or unenforceability of any portion of this chapter shall not affect the other provisions thereof, and this chapter shall be construed in all respects as if such invalid or unenforceable provision were omitted. (Ord. 90-96 § 6).
EXHIBIT B

Chapter 8.10
SOLID WASTE AND RESIDENTIAL RECYCLING COLLECTION

Sections:
8.10.010 Purpose.
8.10.020 Findings.
8.10.030 Definitions.
8.10.040 Single-family residential garbage collection.
8.10.050 Residential recycling collection.
8.10.060 Nonresidential and multifamily garbage collection.
8.10.070 Submittal of documents and notices.
8.10.080 Notice to Utilities and Transportation Commission.
8.10.090 Modification of collection schedules.
8.10.100 Severability.

8.10.010 Purpose.
A. Policies expressed in Whatcom County’s 2008 Comprehensive Solid and Hazardous Waste Management Plan (“plan”) make waste reduction and recycling the preferred methods of handling solid waste. The purpose of this chapter is to specify service levels and rate structures for recycling and solid waste collection that encourage recycling and waste reduction, that protect the public health and safety, and to ensure that, to the maximum extent practicable, only the remainder after separation should be incinerated or landfilled.

B. Certain service levels and rate structures for solid waste and recycling collection are hereby established in Whatcom County to further the objectives of the plan, including a high level of waste reduction and recycling; to ensure the provision of such solid waste collection and disposal systems and services as are in the public interest; and to secure a healthful environment for all citizens of Whatcom County. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

8.10.020 Findings.
The county council, in establishing service levels and rate structure principles, determines and finds:
A. Waste reduction and recycling measures contemplated by the plan promote the health, safety, and welfare of residents by encouraging the reuse of products and reducing the use of incineration and landfill facilities.

B. State and federal laws and regulations have increased the responsibility of local governments to manage solid waste systems in a manner that protects public health and safety.

C. The state and the county have set waste reduction and recycling as the highest priorities in managing solid waste. In order to make programs for waste reduction, curbside recycling and other source separation feasible, rate structures must make it cost-effective for residents and businesses who generate small amounts of waste to participate in such programs, and all nonresidential accounts must be offered the option of subscribing to recycling service.

D. It is the policy of the county that collected recyclable materials be processed locally whenever practicable and that they be utilized according to the following priorities: (1) reuse intact materials in their original form for their original purposes; (2) recycle materials back into their original form for their original purpose; (3) recycle materials for other uses and preserve the future ease of recyclability; and (4) reuse materials for single end uses that do not allow or that inhibit further recycling.

E. Adoption of the ordinance codified in this chapter is necessary for the protection of natural resources and the environment, the immediate preservation of the public health and welfare and the support of governmental activities. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

8.10.030 Definitions.

As used in this chapter:

A. "Carrier" means a common, contract or private carrier as defined by RCW 81.80.010.

B. "Certificated hauler" means solid waste collection companies.

C. "Executive committee" means the group of seven mayors and the county executive as established and governed by interlocal agreements between the county and cities in July 1989.

D. "Multifamily dwelling" means a residential dwelling containing five or more units on one lot or parcel.
E. "Nonresidential account" means a building or facility that is not occupied as a permanent residence including, but not limited to, commercial and industrial businesses, schools, hospitals, government buildings, recreation facilities, and transportation facilities.

F. "On-call service" means garbage pickup service and drop-off recycling on other than regularly scheduled days, from a dwelling unit that is a seasonal vacation or weekend home. On-call garbage service does not include roadside recycling service and tends to be on a variable infrequent basis.

G. "Recyclables" and "recyclable materials" mean those solid wastes that are separated for recycling or reuse as identified in this chapter.

H. "Seasonal vacation or weekend home" is defined as a secondary residence used only for weekend or vacation use and not as a full-time or primary residence.

I. "Single-family residence" means a residential dwelling containing four or fewer dwelling units on one lot or parcel. Where two, three, or four units are on one lot or parcel, each lot or parcel/unit shall be considered as an individual single-family residence.

J. "Solid waste" shall have the meaning given to it by RCW 70.95.030.


8.10.040 Single-family residential garbage collection.

A. Solid waste collection companies shall perform collection and hauling of garbage from single-family residences that request collection service in unincorporated portions of Whatcom County. Service to single-family residences shall be provided on a schedule of either weekly, every-other-week or monthly collection. In Point Roberts only, seasonal vacation or weekend residents will be encouraged to participate in recycling and have the option of on-call service.

B. Garbage containers provided by and for single-family residences shall be 30 to 32 gallons and 15 to 20 gallons. Solid waste collection companies may also offer 60- or 90-gallon
containers. A specific size within the 15- to 20-gallon "mini-can" range shall be approved by each company and shall be consistent within its certified service area. Ninety-gallon can service shall be available only on a weekly or every-other-week basis. The design of all containers within each service area shall be subject to approval by the solid waste collection company certified for that area.

C. Collection rate structures shall be designed to encourage waste reduction and recycling and to comply with the plan. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

D. Effective January 1, 2019 single-family residences located in Point Roberts, with on-site sewage systems, shall no longer be exempt from mandatory curbside collection services. As a minimum level of service, the minimum required curbside collection service shall be every other week garbage collection of a 32 gallon can and three-bin source separated recyclables. The cost of the minimum level of service, as per the approved UTC tariff, shall be billed as an annual fee on the property tax bill, at the rate of one minimum level of service per single family residence. Service levels above the minimum level of service, as may be requested of the service provider, for larger cans, increased frequency of pickup, carry out or other services, will be invoiced directly by the service provider as per the approved UTC tariff.

8.10.050 Residential recycling collection.
A. Solid waste collection companies shall collect source-separated recyclables from all residences in unincorporated portions of Whatcom County that receive regularly scheduled garbage collection. All single-family residences shall be provided with recycling collection at least every other week and on the same day of the week as garbage collection. Service to multifamily residences shall be provided at least every other week. The solid waste collection company shall provide residents who have completed the garbage exemption process the opportunity to subscribe to recycling-only collection service without subscribing to garbage collection. Recycling-only customers will be charged the full cost of recycling collection service plus an appropriate administrative/billing fee. In Point Roberts only, single-family residences are defined as permanently yearround occupied buildings and every-other-week recycling collection does not have to be on the same day as garbage pickup. All single-family residences located in Point Roberts meeting the definition of seasonal vacation or weekend homes, as defined under WCC 8.10.030(H), are exempt from curbside recycling collection.
B. The solid waste collection company shall provide recycling containers to each residence at the customer's request. Container design and use shall be subject to the prior administrative approval of the county. The Utilities and Transportation Commission, by law, will establish fair, just, reasonable, and sufficient rates for solid waste collection companies under Chapter 81.77 RCW. The company shall deliver all containers to the dwelling unit unless otherwise directed by the county.

C. 1. Solid waste collection companies shall collect, and recycling containers shall be designed to hold, the following materials:

   a. Newspaper;

   b. Mixed waste paper;

   c. Aluminum containers;

   d. Tin-plated steel containers;

   e. Glass containers;

   f. All plastic bottles; all remaining plastic containers are eligible as approved by the county and the solid waste collection company;

   g. Yard Waste. Collection of this material is deferred pending further amendments to this chapter.

2. The following materials shall also be collected when placed adjacent to set-out containers:

   a. Corrugated cardboard;

   b. Scrap metal no longer than 24 inches in any dimension or heavier than 35 pounds per piece;

   c. Lead-acid batteries that show no signs of leakage;

   d. Used motor oil in sealed containers;

   e. Nothing in this section shall prohibit the solid waste collection company from picking up additional items at the company's discretion.
D. Materials shall be collected on the improved public road nearest to the residence (or mutually agreed upon location) when properly set out on the designated collection day. The solid waste collection company is not required to collect materials at any particular hour. The collector is not required to enter private property to collect material while an animal considered or feared to be vicious is loose. The resident shall confine such an animal on collection day.

E. In case of missed collection, the solid waste collection company shall investigate and, if the missed collection is verified, shall arrange for the collection of the uncollected recyclable material within one business day after the complaint is received, unless otherwise agreed by the company and customer. All solid waste collection companies shall add staff as needed to answer questions and respond to complaints from 8:00 a.m. to 5:00 p.m. on collection days.

F. A solid waste collection company subject to regulation by the UTC as to rates and service shall not charge, demand, collect, or receive a different compensation from its customers than the applicable UTC-established rates (Chapter 81.28 RCW).

G. Solid waste collection companies and recycling companies shall take reasonable actions in marketing recyclable materials to implement the county’s policies regarding local processing and priorities of use. All materials collected shall be processed and marketed such that no recyclable material is landfilled, incinerated, or disposed of in any way other than recycling. The companies shall adopt collection procedures and technologies to minimize the cross-contamination or non-recyclability of collected materials.

H. The county, in consultation with solid waste collection companies and purchasers of recyclable materials, shall establish promotional strategies by which the companies shall inform the public about recycling collection service. The county may adopt, and pay for, additional promotional strategies if they wish. Requirements imposed by the UTC are not promotional strategies for purposes of this section.

I. It is unlawful for any person, other than the solid waste collection companies as authorized by this chapter, to collect, remove, haul, or dispose of recyclable materials set out for collection pursuant to this section without first obtaining the consent of the occupant or owner of the premises. Any violation of this subsection shall constitute a misdemeanor and, upon conviction, violators shall be punished by a fine of not less than $500.00. Each day of such violation, and violation at each dwelling unit, shall be deemed a separate and independent offense. (RCW 70.95.235)
J. The business name and telephone number of the collector shall be clearly visible on each side of each vehicle used to provide residential recycling service. The collector shall contain, tie, or enclose all collected materials to prevent leaking, spilling, or littering.

K. If the county executive determines that a solid waste collection company has materially failed to comply with the requirements or policies of this chapter, the county executive shall provide the company with a written notice specifying the noncompliance and affording the company 60 days to cure the noncompliance; provided, however, that the solid waste collection company shall not be required to cure any noncompliance that is caused by an event or condition, including a threat to the public health or safety, that is beyond the company's control. At the discretion of the county executive, the period for cure may be extended. If the solid waste collection company fails to cure, the county may contract for the provision of residential recycling service pursuant to RCW 36.58.040 in the area served by the company.

L. Should the county or the solid waste collection company determine that there is no reasonable market for a material and/or the cost of recycling that material is unreasonable, they can petition the executive to eliminate the requirement for that material to be collected as a recyclable. The executive has full discretion whether to accept or deny the request. The executive must state the period of time the exemption will be allowed. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

8.10.060 Nonresidential and multifamily garbage collection.
A. Solid waste collection companies shall perform collection and hauling of garbage from nonresidential and multifamily accounts in Whatcom County.

B. Container sizes for nonresidential and multifamily accounts shall be approved by the solid waste collection company.

C. Rate structures for multifamily garbage collection shall be designed to encourage waste reduction and recycling and to comply with the plan.

D. Solid waste collection companies shall bill each customer at least once every three months. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).
8.10.070 Submittal of documents and notices.

A. Whenever a solid waste collection company files a proposed tariff revision with the UTC, the company shall simultaneously provide the county with copies of the proposed tariff and all nonproprietary supporting materials submitted to the UTC any time prior to approval of the tariff. Such materials include but are not limited to any correspondence or other information concerning rate calculation parameters and details, tariff sheet application and adjustments, and annual reports.

B. 1. All solid waste collection companies, recycling collectors and processors, transfer facilities, and disposal facilities shall provide the county with the following quarterly information on April 20th, July 20th, October 20th, and January 20th for each of the previous three months and, where appropriate and practical, separately listed for each city and unincorporated area of the county:

   a. Daily disposal tonnages to and from municipal disposal facilities for each primary disposal or processing method, transfer stations, and convenience centers;

   b. Monthly disposal tonnages from industrial and other private landfills;

   c. Monthly recycling tonnages per material from all recycling collectors and processors;

   d. Solid waste collection, disposal, and recycling collection and processing service contracts and amendments within incorporated and unincorporated areas of the county; and

   e. A log of all customer complaints about recycling, specifying the date, nature of complaint and resolution for each complaint.

2. In addition, all solid waste collection companies shall provide the county with the following information regarding residential recycling and, where appropriate and practical, separately listed for single-family and multifamily residences broken out by city/county:

   a. Monthly tonnages and, if available, volumes of materials collected by type of material collected, and revenues/costs by type of material;

8.10.080 Notice to Utilities and Transportation Commission.
The Whatcom County council, pursuant to RCW 36.58.040, hereby notifies and requests the Utilities and Transportation Commission to carry out and implement the policies and programs specified in this chapter and in the plan in coordination with solid waste collection companies and common carriers through the Commission's rate setting and oversight authority. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

8.10.090 Modification of collection schedules.
The provisions of this chapter concerning (1) the frequency of collection of recyclable materials and garbage; (2) service levels in rural areas; and (3) rate structures in the event that the UTC issues an inconsistent order may be modified by agreement of the county executive and all solid waste collection companies, subject to approval by the county council. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

8.10.100 Severability.
If any portion or section of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the section to other persons or circumstances is not affected. (Ord. 2014-035 Exh. A; Ord. 2003-018; Ord. 2001-041; Ord. 2001-34; Ord. 97-067; Ord. 95-045).

1 Prior legislation: Ords. 90-95, 91-003 and 91-054.
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## TITLE OF DOCUMENT:

Jail alternative update from COB Court Administrator Darlene Peterson

## ATTACHMENTS:

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## SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Jail alternative update from City of Bellingham Court Administrator Darlene Peterson

## COMMITTEE ACTION:


## COUNCIL ACTION:


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Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council)
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### TITLE OF DOCUMENT:

Discussion of the Criminal Justice & Public Safety Committee work plan for 2018 and other meeting-related items.

### ATTACHMENTS:

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<th>Should Clerk schedule a hearing?</th>
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### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Discussion of the Criminal Justice and Public Safety Committee's work plan for 2018

### COMMITTEE ACTION:

2/27/18: Discussed in Criminal Justice and Public Safety Committee

3/13/2018: Discussed and approved motion to allocate money from the $100,000 approved for the work of the Criminal Justice and Public Safety Committee to create and implement a combined phone and Google survey to gather statistically valid opinions of the community

3/27/2018: Discussed

5/8/2018: Updated and approved motion to forward email to the Incarceration Prevention Reduction Task Force for their analysis and recommendation as to whether Council should pursue a grant

### COUNCIL ACTION:

- Related County Contract #: 
- Related File Numbers: 
- Ordinance or Resolution Number: 

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Cost Proposal

Based on our understanding of the requirements for Whatcom County, we are proposing the below costs on an annual pricing model. This offer will remain valid for 90 days from the reception of this proposal.

RESEARCH CORE 5
- Reporting Suite
- All Channel Distributions
  (Email, Web, SMS (text), Offline App, Social, QR codes, Mail Merge)
- Advanced Quota Management
- All Question Types
  (Heat Map, Rank Order, etc.)
- Screen-out Reporting
- Custom / JavaScript Logic
- Additional Languages (58 total)
- Email Triggers
- Qualitative Topic Analysis
- Stats iQ
  (Describe, Export, and Relate)
- 24/7 Support

1 User | 5,000 Responses
$4,500
+ Text iQ = $2,400

5 Users | 12,000 Responses
$9,900
+ Text iQ = $3,600

Unlimited Users | 40,000 Responses
$21,060
+ Text iQ = $6,000

Unlimited Users | 70,000 Responses
$29,970
+ Text iQ = $7,200

Unlimited Users | 100,000 Responses
$38,070
+ Text iQ = $8,400
TITLE OF DOCUMENT

Discussion with the County Council to get direction from the Council majority on potential Whatcom County Code amendments and projects to help people that are experiencing homelessness.

ATTACHMENTS:
1. Memo
2. GIS maps for Council consideration
   - Whatcom County Parcels In and Around Bellingham
   - Whatcom County Parcels in Bellingham (Downtown)
3. Safe Storage Concept
4. Safe Storage Info Sheet
5. Planning and Development Services Memo
   - City of Bellingham Ordinance

SEPA review required? ( ) Yes ( x ) NO
SEPA review completed? ( ) Yes ( x ) NO
Should Clerk schedule a hearing? ( ) Yes ( x ) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Discussion with the County Council to get direction from the Council majority on potential Whatcom County Code amendments and projects to help people that are experiencing homelessness. At the April 24th Council meeting the Whatcom County Council passed a motion 6-0 requesting more information from the administration and asking that the administration consider County property that may be appropriate for locating storage lockers for the homeless population as proposed in the Safe Storage PNW program. Council direction is needed on location choices for this project and code amendments Council would like Planning to work on related to temporary homeless facilities

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: Whatcom County Council Members  
FROM: Jack Louws, County Executive  
        Tyler Schroder, Deputy Executive

DATE: May 22, 2018

SUBJECT: Projects and code amendments related to homelessness

At the April 24th Council meeting, the Whatcom County Council passed a motion 6-0 to get more information from the administration and request that the administration consider County property that may be appropriate for locating storage lockers for the homeless population as proposed in the Safe Storage PNW program.

The Administration has compiled the following information to help inform Council in their decision of the appropriate location for these storage lockers;

- GIS maps for Council consideration
  - Whatcom County Parcels In and Around Bellingham
  - Whatcom County Parcels in Bellingham (Downtown)
- Safe Storage Concept
- Safe Storage Info Sheet
- Planning and Development Services Memo
- City of Bellingham Ordinance

According to the Safe Storage Team, the ideal locations are close to an electrical source and/or lighting, and somewhere that feels safe for the people using the lockers - fairly open, not too tucked away or dark. Also, if possible to have the lockers situated on the property in spaces that are away from, or buffered from, residences or businesses.

Also, at the April 24th Planning and Development Committee and in the evening meeting the County Council requested that staff provide more information in regards to what the City of Bellingham has done to allow for temporary homeless facilities and what amendments to the Whatcom County Code would be needed to allow for similar facilities in Whatcom County Urban Growth Areas.

After review and discussion, the request is to have the Whatcom County Council provide direction on what properties are their top 2-3 locations for the Safe Storage PNW project. Also, Council direction is needed on what temporary homeless facilities code amendments Council would like Planning and Development Services to work on.
SAFE STORAGE

Safe Storage PNW aims to increase the chances for people experiencing homelessness to transition off the streets and into permanent housing by providing outdoor storage lockers to safely store personal belongings. This pilot project, run by the non-profit BasicsPNW, was started by community members in 2016 in response to community-wide feedback and surveys identifying storage as the most needed service, second to housing, by people experiencing homelessness in Bellingham, WA. The pilot project will consist of 24 outdoor lockers in 2 to 3 locations around downtown Bellingham, with the goal of growing the number of lockers and locations as quickly as possible to meet demand. Safe Storage PNW offers an opportunity to go about daily life (including attending work or school, looking for a job, going to appointments, and completing other daily tasks) without the constant mental and physical burden of carrying one’s belongings everywhere, all day long. Safe Storage PNW hopes to expand this vital program to other towns and cities throughout Whatcom County and the Pacific Northwest.

VICINITY MAP - FINAL PILOT LOCATION TBD

Drawing List:
Cover Sheet
1 - Unit Elevations
2 - Detailed Elevations
3 - Isometric Exploded View
4 - Section View
5 - Construction document plywood locker frame
6 - Construction document metal door frame / jamb
7 - Construction document metal base
8 - Cluster Design

OWNER: BasicsPNW
Address: pending
Brittany Jones, 425-343-7389
Carmen Gilmore, 360-220-0592
4safestorage@gmail.com

SAFE STORAGE CONCEPT 4.0

Slab Design / Build Inc.

Description: Lockers
Drawn by: MR 4.03.18
PROJECT: SS1291701
Safe Storage 4.0
3/4" SFT. PLYWOOD FRAME TYP
BUTT JOINED W/ CONST. ADH.
2" x 14 1/2" OC TYP COATED
SQ. DRIL. COUNTER SUNK

PLYWOOD FRAME - ISO
1" - 1'

DOOR - FRONT
1" - 1'

PLYWOOD FRAME FRONT VIEW
1" - 1'

PLYWOOD FRAME SIDE VIEW
1" - 1'

3/4" SFT. SHELF TYP
1 1/2" METAL CLOTHING BAR

1' - 11 1/2" 2' - 1/4"
1' - 4" 1' - 1 1/8"
1 3/4" 1 3/4"
1' - 9 3/4"
1 13/16" 2" - 6 13/16"
MATERIAL / PARTS LIST: METAL DOOR FRAME / STOP

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Scale: 1/2" - 1' typical unless noted otherwise
Description: Lockers
Drawn by: MR 4.03.18
PROJECT: SS1129701
Safe Storage 4.0
Safe Storage PNW

**Pilot Project:** Outdoor storage lockers for people experiencing homelessness. A safe place to store personal belongings has been identified as the most important need, after housing, by people experiencing homelessness in Bellingham. The 2017 Point-In-Time Count, which is believed to underestimate homelessness figures, found 742 people experiencing homelessness in Whatcom County. Almost half have no shelter at all, and even those fortunate enough to get a shelter bed do not have access to a safe place to store belongings. This leaves people’s valuable personal belongings, including important documents, medications, and irreplaceable keepsakes, vulnerable to theft and confiscation. There is also a stigma and huge mental and physical burden associated with carrying everything you own, all day long.

**Goal:** To provide a safe place to store valuable personal belongings, increasing one’s chances of obtaining permanent housing and transitioning off the streets.

**Program:** Clients will access the Safe Storage program through a lottery application process and will sign a month-to-month locker use agreement. Clients will be responsible for the locker and surrounding area, and will agree to regular check-in's with the Safe Storage team. Clients will be offered the opportunity to work with a peer counselor/advocate and to receive mail to their locker. Additional services may include: laundry & shower vouchers, first aid supplies, personal care items, dental care, and electrical outlets inside each locker.

**Management:** The lockers will be managed and maintained by the Safe Storage team, as a project of the nonprofit BasicsPNW. Members of the Safe Storage team will make daily check-ins to the lockers to ensure the area around the lockers is kept clean and that the lockers are in good condition. Safe Storage security cameras, lighting, and a 24-hour contact number will be on the lockers for client and public needs and questions.

**Location:** The pilot project will consist of approximately 24 outdoor lockers, divided between 2 to 3 locations around downtown Bellingham, with the goal of growing the number of lockers and locations as quickly as possible to meet demand. Lockers can be customized for each specific location, with a street art feel to complement and add to the character of the surrounding neighborhood.

**Design:** Each locker is approximately 5’7” tall with a 24” x 25” base. Lockers are designed to accommodate luggage and personal items, with built in shelves and hooks for organization. Each locker has a personal key code and mail slot.

**Timeline:** Lockers are in the design/prototype phase as we work out the best and most cost effective materials and client usability. Final design and build can begin as early as Summer 2018. Securing locations is the first step toward finalizing the locker design for each space and beginning construction.

**How can you support this project?:** We are actively seeking one more pilot location and additional funding. Talk about this project with people you know. Like and share our Facebook and GoFundMe pages. Donate towards our GoFundMe goal, and current $7,500 matching grant. Thank you!

**Contact:**
Carmen Gilmore, Brittany Jones  
Safe Storage Coordinators  
4safestorage@gmail.com  
360-220-0592 (Carmen), 425-343-7389 (Brittany)

GoFundMe: [https://www.gofundme.com/bellingham-safe-storage](https://www.gofundme.com/bellingham-safe-storage)  
Facebook: [https://www.facebook.com/safestoragebellingham/](https://www.facebook.com/safestoragebellingham/)
Memorandum

TO: The Honorable Whatcom County Council

FROM: Mark Personius, PDS Director

THROUGH: The Honorable Jack Louws, County Executive

DATE: May 11, 2018

SUBJECT: Legislative Process for Temporary Homeless Facilities

Many communities across the state and the nation are struggling to find housing options for people experiencing homelessness. The County Council has expressed interest in exploring options to provide for temporary homeless facilities (e.g., tent or "tiny home" encampments). This memo serves to provide a brief overview of the potential options available under current laws and a potential regulatory path forward.

In short, current county zoning, building and health codes do not allow for such tiny home encampments. However, state law, RCW 36.01.290, authorizes religious organizations to host temporary tent encampments to provide shelter for homeless individuals on property these religious organizations own. Cities and counties may not adopt regulations that prohibit or substantially burden such religious organizations from carrying out the activities authorized under state law. Although jurisdictions may condition such encampments to protect public health and safety.

The City of Bellingham adopted emergency interim ordinance 2018-02-005 (attached) on February 26, 2018 to allow any religious or 501(c)(3) not-for-profit organization to take advantage of those provisions. The interim rules in that ordinance expire in one year. Meanwhile the city is working on permanent regulations to be considered by the planning commission and city council later this year. The existing interim rules adopted by the city include, but are not limited to, the following key requirements:

- Temporary encampment(s) project(s) approved administratively
- Public comment period on application and notice to neighbors
- May be more than one encampment permitted, however, the total maximum number of people accommodated city-wide by such camp(s) shall not exceed 100 people for maximum 90 days (with one 90 day extension allowed)
- Allows for tents or other temporary (tiny home) structures (approved by the city)
- Minimum setbacks from abutting residential properties and sight-obscuring fencing required
- No minors allowed unless accompanied by parent or guardian
- Managing agency must have a "code of conduct" for camp residents and operational safety plan, including 24/7 security and resident/visitor registration
- Must meet public health requirements including potable water facilities, portable toilets, refuse receptacles, food prep areas and hand washing stations
The most straightforward approach would be for the County to model the City of Bellingham's approach to authorizing and regulating the temporary homeless encampment issue. The rationale being that adopting the same or very similar regulations in the city and the county provides a level playing field for those religious or qualified not-for-profit organizations that may wish to manage such temporary homeless encampments now allowed under state law.

The County Council may wish to consider adopting an emergency interim ordinance (similar to the city's) to allow implementation of RCW 36.01.290 in the interim and allow more time and public input to determine appropriate long-term strategies to address homelessness that best fit Whatcom County.

**Recommended Action:** As directed by Council
EMERGENCY ORDINANCE NO. 2018-02-005

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON, RELATING TO LAND USE AND ZONING; DECLARING AN EMERGENCY; ADOPTING INTERIM ZONING REGULATIONS FOR THE SITING, ESTABLISHMENT, AND OPERATION OF TEMPORARY TENT ENCAMPMENTS; AND SETTING TWELVE MONTHS AS THE EFFECTIVE PERIOD OF THE INTERIM ZONING REGULATIONS TO ALLOW THE CITY TO STUDY THE LAND USE IMPACTS OF SUCH USES.

WHEREAS, homelessness continues to be a local, regional and national challenge due to many social and economic factors; and

WHEREAS, tent encampments have become a temporary mechanism for providing shelter for homeless individuals and families; and

WHEREAS, under RCW 35A.21.360 the Washington State Legislature has authorized religious organizations to host temporary tent encampments to provide shelter for homeless individuals on property that these religious organizations own; and

WHEREAS, the Bellingham Municipal Code does not currently have specific provisions addressing the establishment and operation of temporary tent encampments; and

WHEREAS, an emergency exists necessitating adoption of interim tent encampment regulations and processing requirements to preserve and protect public health and safety and prevent danger to public or private property; and

WHEREAS, interim zoning controls enacted under RCW 36.70A.390 and/or RCW 35.63.200 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot by intervening development; and

WHEREAS, RCW 36.70A.390 and RCW 35.63.200 both authorize the enactment of an interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing as long as a public hearing is held within at least sixty days of its enactment; and

WHEREAS, RCW 36.70A.390 provides that, "A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270
may be effective for up to one year if a work plan is developed for related studies providing for
such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim
official control may be renewed for one or more six-month periods if a subsequent public
hearing is held and findings of fact are made prior to each renewal; and

WHEREAS, pursuant to WAC 197-11-880, the adoption of this interim zoning ordinance is
exempt from the requirements of a threshold determination under the State Environmental
Policy Act (SEPA) and future permanent zoning regulations will be reviewed in accordance
with SEPA Rules; and

WHEREAS, on January 22, 2018, the City Council adopted emergency interim zoning
ordinance #2018-01-001; and

WHEREAS, on February 26, 2018, the City Council conducted a public hearing on emergency
ordinance #2018-01-001 and determined that minor amendments were needed to the
emergency interim regulations; and

WHEREAS, in conformity with the responsibilities of the City of Bellingham to meet public
health, safety and welfare requirements and provide zoning and land use regulations pursuant
to state law, and the City's authority to regulate land use activity within its corporate limits, the
City intends to develop appropriate public health, safety and welfare requirements and zoning
and land use regulations for the establishment and operation of temporary tent encampments;
and

WHEREAS, the City Council has determined it needs additional time to conduct appropriate
research to analyze the effects of the establishment and operation of temporary tent
encampments; and

WHEREAS, interim zoning will provide the City with additional time to review and amend its
public health, safety and welfare requirements and zoning and land use regulations related to
the establishment and operation of temporary tent encampments; and

WHEREAS, interim zoning will also allow qualifying religious organizations and registered not-
for-profit, tax exempt 501(c)(3) organizations the opportunity to establish and operate
temporary tent encampments; and

WHEREAS, the City Council concludes that the City does have the authority to establish an
emergency interim zoning ordinance and that the City must adopt emergency interim zoning
concerning the establishment and operation of temporary tent encampments to act as a stop-
gap measure: (a) to provide the City with an opportunity to study the issues concerning the
establishment and operation of temporary tent encampments and prepare appropriate
revisions to the City's codes and regulations; (b) to protect the health, safety, and welfare of
the citizens of Bellingham by avoiding and ameliorating negative impacts and unintended
consequences of establishing and operating temporary tent encampments and (c) to avoid
applicants possibly establishing vested rights contrary to and inconsistent with any revisions
the City may make to its rules and regulations as a result of the City's study of this matter; and
WHEREAS, the City Council adopts the foregoing as its findings of facts justifying the adoption of this Ordinance; and

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Findings of Fact. The City Council adopts the above "WHEREAS" recitals as findings of fact in support of its action as required by RCW 36.70A.390 and RCW 35.63.200.

Section 2. Repeal. Emergency interim ordinance #2018-01-001 is hereby repealed and replaced with the adoption of this emergency interim ordinance.

Section 3. Regulations established. Regulations concerning the establishment and processing of applications for temporary tent encampments in the City are hereby established. Establishing such facilities contrary to the provisions of this chapter is prohibited. Temporary use permits shall be required for temporary tent encampments in the City. With the exception of temporary use permits for tent encampment facilities that are in full compliance with this chapter, applications for temporary use permits, land use approvals, or any other permit or approval, in any way associated with temporary tent encampment facilities, shall not be accepted, processed, issued, granted, or approved. If a temporary tent encampment is established in violation of this chapter or if, after a temporary use permit is issued for the same, the director of community development determines that the permit holder has violated this chapter or any condition of the permit, the temporary tent encampment, its sponsor and managing agency shall be subject to code enforcement and all activities associated with the temporary tent encampment shall cease, and the site shall be vacated and restored to its pre-encampment conditions.

Section 4. Definitions. The following definitions apply to temporary tent encampments:

A. "Temporary tent encampment" means a short-term residence facility for a group of people that is composed of tents or other temporary structures, as approved by the director, on a site provided or arranged for by a sponsor with services provided by a sponsor and supervised by a managing agency.

B. "Managing agency" means an organization identified as the manager of a temporary tent encampment that has the capacity to organize and manage a temporary tent encampment. A "managing agency" may be the same entity as the sponsor.

C. "Sponsor" means an organization that:

(1) invites a temporary tent encampment to reside on land they own or lease; and
(2) is a State of Washington registered not-for-profit corporation and federally recognized tax exempt 501(c)(3) organization; or
(3) is recognized by the Internal Revenue Service as exempt from federal income taxes as a religious organization, that expresses its religious mission, in part, by organizing living accommodations for the homeless.
D. “Director” means the Planning and Community Development Director.

Section 5. Requirements.
The following requirements shall apply to all temporary tent encampments approved under this chapter, unless modified by the director through approval of a temporary use permit:

A. The encampment shall be located a minimum of 20 feet from the property line of abutting properties containing commercial, industrial, and multifamily residential uses. The encampment shall be located a minimum of 40 feet from the property line of abutting properties containing single-family residential or public recreational uses, unless the director finds that a reduced buffer width will provide adequate separation between the encampment and adjoining uses, due to changes in elevation, intervening buildings or other physical characteristics of the site of the encampment.

B. No encampment shall be located within a critical area or its buffer as defined by Bellingham Municipal Code (BMC) 16.55.

C. A six-foot-tall sight-obscuring fencing is required around the perimeter of the encampment, provided, that the fencing does not create a sight obstruction at the street or street intersections or curbs as determined by the city engineer, unless the director determines that there is sufficient vegetation, topographic variation, or other site conditions such that fencing would not be needed.

D. Exterior lighting must be directed downward and glare contained within the temporary tent encampment.

E. The maximum number of residents at a temporary tent encampment site shall be determined by the director taking into consideration site conditions, but in no case shall the number be greater than 100 people.

F. On-site parking of the sponsor shall not be displaced unless sufficient required off-street parking remains available for the host’s use to compensate for the loss of on-site parking or unless a shared parking agreement is executed with adjacent properties.

G. A transportation plan, including provisions for transit, and pedestrian and bicycle ingress and egress to the encampment, shall be submitted for review and approval.

H. No children under the age of 18 are allowed to stay overnight in the temporary tent encampment, unless accompanied by a parent or guardian. If a child under the age of 18 without a parent or guardian present attempts to stay at the encampment, the sponsor and the managing agency shall immediately contact Child Protective Services and shall actively endeavor to find alternative shelter for the child.

I. The sponsor or managing agency shall provide and enforce a written code of conduct, which not only provides for the health, safety and welfare of the temporary
tent encampment residents, but also mitigates impacts to neighbors and the community. A copy of the code of conduct shall be submitted to the City at the time of application for the temporary use permit. Said code shall be incorporated into the conditions of approval.

J. The sponsor and the managing agency shall ensure compliance with Washington State laws and regulations, the Bellingham Municipal Code, and the Whatcom County Health Department’s regulations concerning, but not limited to, drinking water connections, solid waste disposal, and human waste. The sponsor and the managing agency shall permit inspections by local agencies and/or departments to ensure such compliance and shall implement all directives resulting therefrom within the specified time period.

K. The sponsor and managing agency shall assure all applicable public health regulations, including but not limited to the following, will be met for:

1. Potable water, which shall be available at all times at the site;
2. Sanitary portable toilets, which shall be set back at least 40 feet from all property lines;
3. Hand-washing stations by the toilets and food preparation areas;
4. Food preparation or service tents; and
5. Refuse receptacles.

L. Public health guidelines on food donations and food handling and storage, including proper temperature control, shall be followed and homeless encampment residents involved in food donations and storages shall be made aware of these guidelines consistent with the Whatcom health department requirements.

M. The sponsor and the managing agency shall designate points of contact and provide contact information (24-hour accessible phone contact) to the Patrol Operations Commander for the Bellingham Police Department. At least one designated point of contact shall be on duty at all times. The names of the on-duty points of contact shall be posted on-site daily, and their contact information shall be provided to the Bellingham Police Department as described above.

N. Facilities for dealing with trash shall be provided on-site throughout the encampment. A regular trash patrol in the immediate vicinity of the temporary tent encampment site shall be provided.

O. The sponsor and the managing agency shall take all reasonable and legal steps to obtain verifiable identification information, to include full name and date of birth, from current and prospective encampment residents and use the identification to obtain sex offender and warrant checks from appropriate agencies. The sponsor and the managing agency shall keep a log of names and dates of all people who stay overnight in the temporary tent encampment and this current log shall be made available upon demand by any municipal or County Law Enforcement Officer. Persons who have active warrants, or who are required to register as a sex...
offender, are prohibited from the encampment's location. Status checks of current encampment residents shall be routinely performed by the Warrant Officers of the Bellingham Police Department through the current log provided by the sponsor and managing agency.

P. The sponsor and the managing agency shall immediately contact the Bellingham police department if someone is rejected or ejected from the encampment when the reason for rejection or ejection is an active warrant or a match on a sex offender check, or if, in the opinion of the on-duty point of contact or on-duty security staff, the rejected/ejected person is a potential threat to the community.

Q. Tents over 300 square feet in size and canopies in excess of 400 square feet shall utilize flame retardant materials.

R. The sponsor, the managing agency and temporary tent encampment residents shall cooperate with other providers of shelters and services for homeless persons within the City and shall make inquiry with these providers regarding the availability of existing resources.

S. The sponsor and/or managing agency shall provide before-encampment photos of the host site with the application. Upon vacation of the temporary tent encampment, all temporary structures and debris shall be removed from the host site within one calendar week.

T. Upon cessation of the temporary tent encampment, the site shall be restored, as near as possible, to its original condition. Where deemed necessary by the director, the sponsor and/or managing agency shall re-plant areas in which vegetation had been removed or destroyed.

Section 6. Frequency and duration of temporary use.
No more than a maximum of 100 people may be housed in temporary tent encampments located in the City at any time. Multiple locations may be permitted provided that the aggregate total of people in all temporary tent encampments shall not exceed 100. The director shall not grant a permit for the same site more than once in any calendar year; provided, that director is not authorized to issue a permit for the same site sooner than 180 days from the date the site is vacated as provided for in Section 4 of this ordinance. Temporary tent encampments may be approved for a period not to exceed 90 days. The director may grant one 90-day extension, provided all conditions have been complied with and circumstances associated with the use have not changed. This extension shall be subject to a Type I review process under BMC 21.10.100 and may be appealed to the hearing examiner as provided in BMC 21.10.250. The permit shall specify a date by which the use shall be terminated and the site vacated and restored to its pre-encampment condition.

Section 7. Permit required.
Establishment of a temporary tent encampment shall require approval of a temporary use permit, as described in this ordinance, and compliance with all other applicable City
Section 8. Application.
Application for a temporary use permit shall be made on forms prescribed by the City, and shall be accompanied by the following information; provided, that the director may waive any of these items, upon request by the applicant and finding that the item is not necessary to analyze the application. An application to establish a temporary tent encampment shall be signed by both the sponsor and the managing agency ("applicant") and contain the following:

A. A site plan of the property, drawn to scale, showing existing natural features, existing and proposed grades, existing and proposed utility improvements, existing rights-of-way and improvements, and existing and proposed structures, tents and other improvements (including landscaping and fencing at the perimeter of the proposed encampment and the property and off-street parking);

B. A vicinity map, showing the location of the site in relation to nearby streets and properties;

C. A written summary of the proposal, responding to the standards and requirements of this ordinance;

D. The written code of conduct and a transportation plan as required by this ordinance;

E. Statement of actions that the applicant will take to obtain verifiable identification from all encampment residents and to use the identification to obtain sex offender and warrant checks from appropriate agencies;

F. Project statistics, including site area, building coverage, number and location of tents and temporary structures, expected and maximum number of residents, and duration of the encampment;

G. Address and parcel number of the subject property;

H. Photographs of the site;

I. A list of other permits that are or may be required for development of the property (issued by the City or by other government agencies), insofar as they are known to the applicant;

J. Permits for temporary tent encampments shall be processed by the City without charge;

K. A list of any requirement under this ordinance for which the applicant is asking to modify.
Section 9. Decision and appeal.

A. Notice. All temporary tent encampment applications shall be reviewed under a Type II process under BMC 21.10.110. However, the following timelines shall override those found in BMC 21.10.110. Final action on permit applications made under this section shall be rendered within 30 days of submittal. Within seven calendar days of receiving a completed application, the director shall publish a notice of application for a temporary use permit. The notice shall contain, at a minimum, the date of application, project location, proposed duration and operation of the temporary tent encampment, number of residents for the encampment, conditions that will likely be placed on the operation of the encampment, and requirements of the written code of conduct.

B. Decision and Notice of Decision. After conclusion of a 14-calendar-day notice/comment period, the director shall decide whether to grant, grant with conditions or deny a temporary use permit. Before any temporary use permit may be granted, the applicant shall show and the director shall find that:

1. The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed encampment;

2. The proposed use meets the requirements of this ordinance;

3. The proposed use shall be in keeping with the goals and policies of the comprehensive plan;

4. Measures, including the requirements herein and as identified by the director, have been taken to minimize the possible adverse impacts which the proposed encampment may have on the area in which it is located. It is acknowledged that not all impacts can be eliminated, however the risk of significant impacts can be reduced to a temporary and an acceptable level and the duration of the encampment will be limited.

A notice of such decision stating whether the permit is granted or denied, along with information regarding the procedure for appeal of the decision, shall be mailed as required for the notice of application/hearing within three business days after the date of the decision. If issued, the permit for the temporary tent encampment shall be issued jointly to the sponsor and managing agency, and each shall be responsible for compliance with the terms and conditions of the permit and applicable city codes.

C. Conditions. Because each temporary tent encampment has unique characteristics, including, but not limited to, size, duration, uses, number of occupants and composition, the director shall have the authority to impose conditions on the approval of a temporary use permit to ensure that the proposal meets the criteria for approval listed above. Conditions, if imposed, must be intended to minimize
nuisance-generating features such as noise, waste, air quality, unsightliness, traffic, physical hazards and other similar impacts that the temporary tent encampment may have on the area in which it is located. In cases where the application for temporary use permit does not meet the provisions of this chapter (except when allowed under subsection (D) of this section) or adequate mitigation may not be feasible or possible, the director shall deny the application.

D. Modification of Requirements. The director may approve a temporary use permit for a tent encampment that relaxes one or more of the standards in this chapter only when, in addition to satisfying the decision criteria stated above, the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe encampment with minimal negative impacts to the host community under the specific circumstances of the application. In considering whether the modification should be granted, the director shall first consider the effects on the health and safety of encampment residents and the neighboring communities. Modifications shall not be granted if their adverse impacts on encampment residents and/or neighboring communities will be greater than those without modification. The burden of proof shall be on the applicant.

E. Appeal. The director’s decision may be appealed to the hearing examiner as provided in BMC 21.10.250.

Section 10. Purpose. The purpose of this interim zoning ordinance is to allow and establish a review process for the location, siting, and operation of temporary tent encampments within the City. While the interim zoning ordinance is in effect, the City will study the land use and other impacts associated with temporary tent encampments, draft final zoning and regulations to address such uses, hold public hearings on such draft regulations, and adopt such regulations.

Section 11. Duration of Interim Zoning. This interim zoning shall be in effect for one (1) year, beginning on February 26, 2018 and ending on February 25, 2019, unless an ordinance is adopted amending the Bellingham Municipal Code and rescinding the interim zoning before February 25, 2019.

Section 12. Work Plan. During the interim zoning period, City staff will study the issues concerning the establishment and operation of temporary tent encampments. Staff will prepare a draft ordinance with appropriate revisions to the City’s land use regulations, perform SEPA review of the draft ordinance, and conduct the public review process, including public hearings before the City’s Planning Commission and City Council, as required for amendments to the City’s development regulations.

Section 13. Declaration of Emergency. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council as required by RCW 35A.12.130 and City Charter Section 3.05. Without an immediate interim zoning ordinance establishing standards for the review of applications for the siting and operation of temporary tent encampments, such facilities could be submitted and become vested, leading to the
development or use of property that is incompatible with the laws adopted by the City of Bellingham. Therefore, this interim zoning ordinance must be imposed as an emergency measure to protect the public health, safety, and welfare, and to prevent the submission of applications to the City in an attempt to vest rights for an indefinite period of time.

Section 14. Effective Date. This Ordinance shall take effect and be in full force and effect immediately upon passage, as set forth herein, as long as it is approved by a majority plus one of the entire membership of the Council, as required by RCW 35A.12.130 and City Charter Section 3.05.

Section 15. Conflict with other BMC Provisions. If the provisions of this Ordinance are found to be inconsistent with other provisions of the Bellingham Municipal Code, this Ordinance shall control.

Section 16. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

PASSED by the Council this 26th day of February, 2018.

[Signature]
Roxanne Murphy, Council President

APPROVED by me this 19th day of March, 2018.

[Signature]
Kelli Ljumile, Mayor

ATTEST

[Signature]
Brian Henshaw, Finance Director

APPROVED AS TO FORM:

[Signature]
Office of the City Attorney

Published:
March 2, 2018

Temporary Tent Encampments Interim Zoning Ordinance - 10

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**

Ordinance amending Whatcom County Code Title 2 Administration and Personnel; Title 9 Public Peace, Morals and Welfare; Title 16 Environment; Title 20 Zoning; Title 21 Land Division Regulations; Title 23 Shoreline Management Program; Title 24 Health; and creating a new Title 22 Land Use and Development Procedures, to relocate and revise procedures for land use and development related project permits and legislative actions.

**ATTACHMENTS:**

1. Staff Memorandum
2. Draft Ordinance
3. Staff Report, October 18, 2017
4. Findings and recommendations of the Planning Commission

**SEPA review required?** (x) Yes  ( ) NO  
**SEPA review completed?** (x) Yes  ( ) NO

**Should Clerk schedule a hearing?**  ( ) Yes  (x) NO  
**Requested Date**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Ordinance amending Whatcom County Code Title 2 Administration and Personnel; Title 9 Public Peace, Morals and Welfare; Title 16 Environment; Title 20 Zoning; Title 21 Land Division Regulations; Title 23 Shoreline Management Program; Title 24 Health; and creating a new Title 22 Land Use and Development Procedures, to relocate and revise procedures for land use and development related project permits and legislative actions.

**COMMITTEE ACTION:**

2/13/2018: Held in Committee  
3/27/2018: Presented, comments received, and discussed  
4/10/2018: Presented, discussed, and heard testimony  
4/24/2018: Held in Committee

**COUNCIL ACTION:**

1/30/2018: Introduced 7-0  
2/13/2018: Held in Committee  
2/27/18: Discussed in COTW. Held in committee for four weeks (March 27). The focus will be on vesting.

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
Memorandum

TO: The Honorable Jack Louws, Whatcom County Executive
The Honorable Whatcom County Council

FROM: Amy Keenan, AICP, Senior Planner
Nick Smith, Permit Center Specialist

THROUGH: Mark Personius, AICP, Director

DATE: May 14, 2018

SUBJECT: Code Amendment: Land Use and Development Procedures – Title 22

Whatcom County PDS has identified a need to consolidate and clarify Whatcom County permit review procedures to provide the public with a clear and predictable permit review process. This proposed ordinance is developed in accordance with the Washington State Local Project Review Act (Chapter 36.70B RCW), recent Washington State Supreme Court decisions as well as various Washington State jurisdictions. Over several Special Committee of the Whole (SCOTW) meetings, staff has presented and discussed with Council all applicable chapters of proposed Title 22.

In general, the proposed amendments move code from various sections to Title 22, include grammatical improvements and do not alter the substance of the procedures. There are several areas where substantive changes were made to improve clarity and predictability, to remove inconsistencies and to address recent court cases. Those changes are discussed in depth in the staff report, but generally include:

- Vesting and expiration;
- Designate Superior Court as the appeal body for hearing examiner decisions;
- Allow a waiver for preapplication meetings and clarify which project types require a preapplication meeting;
- Add sections to clarify the definition of “quasi-judicial actions;”
- Alter time limits for major project permits and planned unit developments to meet the statutory timeframes in Chapter 36.70B RCW;
- Remove an optional review by Planning Commission for Major Project Permits;
- Reword current WCC 2.33.090(G) to provide clarity and a process for dispute resolution with the director;
- Add specific requirements for written appeal and;
- Standardize review and comment timeframes to 14 or 28 days.
At the April 24th SCTOW meeting, Council requested additional time to send staff questions. In that time, staff has received one comment from a Councilmember, as well as new comments from the Whatcom County Hearing Examiner and staff’s legal counsel. In response to the Hearing Examiner’s and legal counsel’s comments, staff is requesting the Council adopt, by motion two minor amendments (see underline proposed text in Attachments A and B).

**Amendment A:** The Whatcom County Hearing Examiner requested Council provide a provision in Whatcom County Code for a reasonable timeframe to submit briefs for open record appeals. Currently, County Code does not specify when an appeal brief must be submitted from an appealing party. The Hearing Examiner is currently receiving appeal briefs within a day of the open record appeal hearing which does not adequately provide the Hearing Examiner or staff enough time to review the appellant’s brief. In some cases, this has resulted in multiple hearings or the record being held open for additional information.

Staff has proposed to add language to the Hearing Examiner section (WCC 2.11) to authorize the Hearing Examiner to implement “Rules and Regulations” that will allow adoption and amendment of procedures for hearings and appeals. The proposal also clarifies that the Hearing Examiner’s business rules, as currently incorporated in WCC 20.92.225 (and proposed WCC 2.11) apply to appeal hearings and the timeframe for when appeals must be submitted. The appeal timeframe to Superior Court has also been clarified, pursuant to RCW 36.70C.040.

**Amendment B:** Staff has proposed a procedure in WCC 22.20 for citizens to request PDS interpretations of the County’s land use and development codes to clarify conflicting or ambiguous wording. Interpretation procedures commonly appear in other jurisdictions’ codes and are required by RCW 36.70B.110(11). County Code currently does not provide this procedure.

Staff and legal counsel are requesting to further clarify the proposed code interpretation procedure is only intended to be utilized before an applicant submits a project permit application. Active project permits require a decision (see WCC 22.05) and any code interpretation would be made through the project permit. Proposed WCC 20.22 is intended to provide citizens an opportunity to request an interpretation (with appeal rights) before incurring unnecessary costs by submitting a project permit. Proposed Attachment B further clarifies the intent of these procedures.

**Councilmember Comment:** Staff requested that Council provide comments or questions on the proposed Title 22 amendments prior to May 4th. PDS received a request from a councilmember to eliminate WCC 22.05.060 (4)(a-m)&(5), which states the following:

(4) Continuation of vesting. Building or land disturbance permit applications that are required to complete a valid (i.e. not expired) project permit approval for project permits identified in the following list (a-m) shall vest to the zoning and land use control ordinances in effect at the time the project permit application identified below was determined complete.
(a) Administrative Use;
(b) Commercial Site Plan Review;
(c) Conditional Use;
(d) Critical Areas Variance;
(e) Major Project Permit;
(f) Natural Resource Review;
(g) Planned Unit Development;
(h) Reasonable Use (Type II and III);
(i) Shoreline Conditional Use;
(j) Shoreline Exemption;
(k) Shoreline Substantial;
(l) Shoreline Variance;
(m) Zoning Variance.

(5) Building permit applications within recorded long and short subdivisions and
binding site plans. Building permit applications, including associated land disturbance
permits, shall be governed by conditions of approval, statutes, and ordinances in
effect at the time of final approval pursuant to RCW 58.17.170. Vesting duration for
those building permit applications shall be governed by the time limits established
for long subdivisions in RCW 58.17.170, unless the county finds that a change in
conditions creates a serious threat to the public health or safety.

Staff recommends Subsections (4) and (5) be retained in the proposed ordinance.
These sections would extend vesting from an approved land use permit or
subdivision to a complete building permit application. Current code does not contain
clear vesting procedures after approval of a land use permit or subdivision. The
proposed language is intended to address recent court decisions and is drafted from
similar language found in many jurisdictions.

The regulations are intended to provide certainty, within a reasonable time (see
"Expiration of Project Permits," WCC 22.05.140), for developers and the County.
The language is also intended to mitigate future litigation possibly resulting from
unclear vesting regulations. In addition, applicants would likely choose to submit a
building permit application concurrent with land use and subdivision applications.
Submittal of concurrent applications would ensure the ability to construct the
project, but will result in additional design and engineering costs incurred to the
applicant for premature submittal of a building permit application.

In the packet, staff has included the draft ordinance and the proposed minor
amendments (Attachment A and B) to be adopted by motion. Please feel free to
contact Amy Keenan at 778-5943 or Nick Smith at 778-5913 with any questions or
concerns.

Thank you.

Attachments:
Attachment A – 22.05.160 Appeals Amendment Request
Attachment B – 22.20.010 and .020 Land Use Interpretation Amendment Request
Draft Ordinance (Proposed Title 2, 9, 16, 20, 21, 22, 23 and 24)
Attachment A - Appeals

22.05.160 Appeals.
(1) Any party of record may appeal any order, final permit decision or final administrative determination made by the director or designee in the administration or enforcement of any chapter to the hearing examiner, who has the authority to hear and decide such appeals per WCC 2.11.210.

(a) An appeal shall be filed with the department within 14 calendar days of the issuance of a final permit decision and shall be accompanied by a fee as specified in the Unified Fee Schedule. The written appeal shall include:

(i) The action or decision being appealed and the date it was issued;

(ii) Facts demonstrating that the person is adversely affected by the decision;

(iii) A statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;

(iv) The specific relief requested; and

(v) Any other information reasonably necessary to make a decision on the appeal.

(b) The hearing examiner shall schedule a public hearing on the appeal to be held within 60 calendar days following the department's receipt of the application for appeal unless otherwise agreed upon by the county and the appellant.

(c) A party who fails to appeal within 14 days is barred from appeal, per WCC 2.11.

(d) The Business Rules of the Hearing Examiner shall govern appeal procedures.

(i) Hearing Examiner shall have the authority granted in the Business Rules, and that authority is incorporated herein by reference. See also, WCC 2.11.220.

(2) The applicant, any party of record, or any county department may appeal any final decision of the hearing examiner to Superior Court or other body as specified by WCC 22.05.020. The appellant shall file a written notice of appeal within 14 21 calendar days of the final decision of the hearing examiner, as provided in RCW 36.70C.040.
Attachment B – Land Use and Development Code Interpretation Procedures (WCC 22.20)

22.20.010 Purpose and applicability
(1) The purpose of this chapter is to establish the procedure for interpreting provisions of Whatcom County’s land use and development codes to clarify conflicting or ambiguous wording in the absence of a pending project permit.

(2) The director of planning and development services (director) is authorized to make written interpretations of the provisions of the following titles of WCC:

(a) Title 16 Environment,
(b) Title 20 Zoning,
(c) Title 21 Land Division Regulations,
(d) Title 22 Land Use and Development Procedures, and
(e) Title 23 Shoreline Management.

(3) Issuance of an interpretation of the provisions of the code shall not amend the code.

22.20.020 Request for interpretation prior to project permit application.
Anyone may request an interpretation consistent with the provisions of this chapter. Any person may requesting an interpretation of the code prior to submission of a project permit. The person shall submit a written request specifying each provision of the code for which an interpretation is requested, why an interpretation of each provision is necessary, and any reasons or material in support of a proposed interpretation. The county council may establish an application fee for interpretation requests. Interpretations of a pending project permit shall be made through the applicable permitting process as established in WCC 22.05.
ORDINANCE NO. ________________

ADOPTING AMENDMENTS TO WHATCOM COUNTY CODE TITLE 2 ADMINISTRATION AND PERSONNEL; TITLE 9 PUBLIC PEACE, MORALS AND WELFARE; TITLE 15, BUILDING AND CONSTRUCTION; TITLE 16 ENVIRONMENT; TITLE 20 ZONING; TITLE 21 LAND DIVISION REGULATIONS; TITLE 23 SHORELINE MANAGEMENT PROGRAM; TITLE 24 HEALTH; AND CREATING A NEW TITLE 22 LAND USE AND DEVELOPMENT PROCEDURES, TO RELOCATE AND REVISE PROCEDURES FOR LAND USE AND DEVELOPMENT RELATED PROJECT PERMITS AND LEGISLATIVE ACTIONS

WHEREAS, Whatcom County Planning and Development Services has proposed amendments to the Whatcom County Code; and

WHEREAS, The Whatcom County Council reviewed and considered Planning Commission recommendations, staff recommendations, and public comments on the proposed amendments; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. Whatcom County Planning and Development Services has submitted an application for amendments to add a new Title 22 Land Use and Development Procedures, and amend Titles 2, 9, 15, 16, 20, 21, 23 and 24 to move procedural content to the new Title 22.

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on October 16, 2017.

3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on September 20, 2017.

5. The Planning Commission held a public hearing on the proposed amendments on October 26, 2017.

6. In 1995 the State Legislature adopted legislation regarding procedures for county land use and development applications (ESHB 1724; 36.70B RCW). The intent of the legislation was to ensure that applications were processed in a timely, predictable manner, and that different applications involving the same project could be consolidated.

7. Whatcom County Code adopted a new Chapter 2.33 in 1996 in response to the 1995 state legislation. This new chapter contained many of the project permit review procedures, but many procedural sections remained in various sections of the County code, including Title 16 Environment, Title 20, Zoning, Title 21 Land Division Regulations, and Title 23 Shoreline Management.

8. The proposed Title 22 Land Use and Development Procedures would contain administrative procedures that are now located throughout different titles and chapters in Whatcom County Code, eliminating redundancy and, in some cases, inconsistency between code chapters.

9. The proposed Chapter 22.05 Project Permit Procedures would consolidate procedures for project permits in one place.

10. RCW 36.70B.020(4) defines project permits as "...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 developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area 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..."

11. Because vesting principles apply to applications beyond those described in Title 20 Zoning, the vesting provisions are proposed to be moved from Title 20 to the new Title 22, which applies to all land use and development projects. The revised wording in the proposed 22.05.060 uses state law's phrase, "zoning or other land use control ordinances" so that County regulations will be consistent with state statute and case law.

12. RCW 19.27.095(1) states, "A valid and fully complete building permit application for a structure, that is permitted under the zoning or other land use control ordinances in effect on the date of the application shall be considered under the building permit ordinance in effect at the time of application, and the zoning or other land use control ordinances in effect on the date of application."
13. RCW 58.17.033(1) states, "A proposed division of land, as defined in RCW 58.17.020, shall be considered under the subdivision or short subdivision ordinance, and zoning or other land use control ordinances, in effect on the land at the time a fully completed application for preliminary plat approval of the subdivision, or short plat approval of the short subdivision, has been submitted to the appropriate county, city, or town official."

14. The proposed Chapter 22.10 Legislative Procedures combines procedures for comprehensive plan amendments and zoning amendments (including both zoning map changes and code text amendments), from current Chapters 2.160 and 20.90, respectively.

15. The proposed Chapter 22.20 Land Use and Development Code Interpretation Procedures would add procedures for citizens to request PDS interpretations of the County's land use and development codes to clarify conflicting or ambiguous wording. Interpretation procedures commonly appear in other jurisdictions' codes, but Whatcom County Code has no such provision.

16. The proposed Chapter 22.25 would contain the fee provisions now contained in WCC 20.04.090 - .092 so that it would apply to other development-related titles of the Whatcom County Code beyond Title 20 Zoning.

17. Some highly detailed requirements currently found in the code are proposed to be removed from code and consolidated into an Administrative Manual that can be updated without requiring a code amendment.

18. The Whatcom County Comprehensive Plan supports streamlining regulations.

CONCLUSIONS

1. The amendments to the zoning code are in the public interest.

2. The amendments are consistent with the Whatcom County Comprehensive Plan.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

   Section 1. Amendments to the Whatcom County Code are hereby adopted as shown on Exhibits A through E.

ADOPTED this ______ day of ______________, 2018.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

_________________________       ________________________
Dana Brown-Davis, Council Clerk  Rud Browne, Chairperson

APPROVED as to form:

_________________________       ________________________
Civil Deputy Prosecutor         Jack Louws, Executive

( ) Approved  ( ) Denied

Date: ________________________
EXHIBIT A
Whatcom County Code Title 22
AMENDMENTS

Title 22
Land Use and Development Procedures

(This would create a new WCC Title 22 that would be the location for all
procedural requirements for land use and development applications,
separate from the land use and development regulations. This takes the
place of the previous Title 22, the Guide Meridian Improvement Plan, which
was repealed during the 2016 Comprehensive Plan update.)

Chapters:
22.05 Project Permit Procedures
22.10 Legislative Action Procedures
22.15 Code Compliance Procedures
22.20 Land Use and Development Code Interpretation Procedures
22.25 Land Use and Development Fees

Chapter 22.05
PROJECT PERMIT PROCEDURES

(This new chapter is adapted mostly from the current Chapter 2.33 Permit
Review Procedures, and procedural passages from other chapters. Current
text is shown in normal black font with proposed changes shown in red.
The current chapter/section numbers are shown as deleted with the
proposed numbers replacing them.)

Sections:
22.05.010 Purpose and applicability.
22.05.020 Project permit processing table.
22.05.030 Consolidated permit review.
22.05.040 Preapplication conference.
22.05.050 Application and determination of completeness.
22.05.060 Vesting.
22.05.070 Notice of application.
22.05.080 Posting of application.
22.05.090 Open record hearings.
22.05.100 Consistency review and recommendations.
22.05.110 Final decisions.
22.05.120 Recommended decisions to county council.
22.05.130 Permit review timeframes.
22.05.140 Expiration of project permits.
22.05.150 Permit revocation procedure.
22.05.160 Appeals.
22.05.170 Annual Report.
22.05.180 Interpretation, conflict, and severability.

22.05.010 Purpose and applicability.
(1) The purpose of this chapter is to combine and consolidate the application, review, and approval processes for project permits and appeals as defined in WCC 20.97.321. It is further intended for this chapter to comply with the provisions of Chapter 36.70B RCW. These procedures provide for a consolidated land use permit process and integrate the environmental review process with the procedures for review of land use decisions.

(2) This chapter applies to the processing of project permit applications for development and appeals related to the provisions of WCC Title 15 Building and Construction, Title 16 Environment, Title 17 Flood Damage Prevention, Title 20 Zoning, Title 21 Land Division Regulations, and Title 23 Shoreline Management. The provisions of this chapter shall apply to all project permit applications as defined in RCW 36.70B.020, and other administrative decisions, as listed in the table in WCC 22.05.020.

22.05.020 Project Permit Processing Table
(1) Marked boxes in the table below indicate the required general steps for processing all project permit applications or administrative actions. The requirements for each step listed in the top row of the table are provided in WCC sections 22.05.040 through 22.05.160, as indicated. Specific requirements for each project permit can be found through the references given in the table.
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<th>Det. of Completeness Required (see 22.05.050)</th>
<th>Notice of Application Required (see 22.05.060)</th>
<th>Site Posting Required (see 22.05.080)</th>
<th>Notice of Open Record Hearing Required (see 22.05.090)</th>
<th>Open Record Hearing Held By: (see 22.05.090)</th>
<th>County Decision Maker (see 21.11.210, 22.05.120)</th>
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Check marks indicate a step is required; reference letters refer to the notes in subsection (2).
(2) Project Permit Processing Table Notes. As indicated in the table in subsection (1), project permits are subject to the following additional requirements:

(a) Preapplication conference subject to Title 23 Shoreline Master Program.

(b) Single family residential uses in critical areas or critical area buffers, except all uses in geological hazardous areas and setbacks.

(c) Shoreline Permit public hearing decision determined pursuant to Title 23 Shoreline Master Program. If a public hearing is required the Shoreline Permit shall be processed as a Type III application.

(d) Final decision filed with the Washington State Department of Ecology.

(e) All uses in geological hazardous areas and setbacks and all non-single family residential uses in critical areas or critical area buffers.

(f) Building permit preapplication conference, subject to WCC 15.04.020(A)(3)(a).

(g) The hearing examiner may choose to consult with the development standards technical advisory committee concerning technical matters relating to land division applications. [from WCC 21.01.170]

(h) Whatcom County shall consider an appeal of a decision on a shoreline substantial development permit, shoreline variance, or shoreline conditional use only when the applicant waives his/her right to a single appeal to the shoreline hearings board. When an applicant has waived his/her right to a single appeal, such appeals shall be processed in accordance with the appeal procedures of section WCC 23.60.150.H.

(i) Except that appeals of Title 15 fire and building code requirements shall be made to the board of appeals per current building code, as adopted in WCC 15.04.010.

22.05.030 Consolidated permit review.¹
The county shall integrate and consolidate the review and decision on two or more project permits subject to this chapter that relate to the proposed project action unless the applicant requests otherwise. Consolidated Type I, II, III and IV permits shall be reviewed under the process required for the permit with the highest process type number per WCC 22.05.020. Level IV is considered the highest and Level I is considered the lowest process type.

22.05.040 Preapplication conference.
The purpose of a preapplication conference is to assist applicants in preparing development applications for submittal to the county by identifying applicable regulations and procedures. It is not intended to provide a staff recommendation on future permit decisions. Preapplication review does not constitute acceptance of an application by the county nor does it vest an application, unless otherwise indicated in Whatcom County Code.

¹ RCW 36.70B.060(3)
(1) A preapplication conference is required as indicated in WCC 22.05.020, unless the director or designee grants a written waiver. For other permits, the applicant may request a preapplication conference.

(2) The county shall charge the applicant a fee for a preapplication conference per the Unified Fee Schedule. If the county makes a determination of completeness on a project permit submitted within one year of the notice of site-specific submittal requirements per subsection (6) of this section, the preapplication fee shall be applied to the application cost.

(3) It is the responsibility of the applicant to initiate a preapplication conference through a written application. The application shall, at a minimum, include all items identified on the preapplication form and the department’s administrative manual. The applicant may provide additional information to facilitate more detailed review.

(4) A preapplication conference shall be scheduled as soon as possible and held no later than 30 calendar days from the date of the applicant’s request, unless agreed upon by the applicant and the county.

(5) The county shall invite the appropriate city to the preapplication meeting if the project is located within that city’s urban growth area or which contemplates the use of any city utilities. Notice shall also be given to appropriate public agencies and public utilities, if within 500 feet of the area submitted in the application. [Subsection (5) wording is proposed to be moved from 21.01.090(2) so the requirement to involve cities in preapplication review would apply to all project permits, not just subdivisions. This is consistent with adopted interlocal agreements.]

(6) The county should provide the applicant with notice of site-specific submittal requirements for application no later than 14 calendar days from the date of the conference.

(7) A new preapplication conference shall be required if an associated project permit application is not filed with the county within one year of the notice of site-specific submittal requirements per subsection (6) or the application is substantially altered, unless waived per WCC 22.05.040(1).

22.05.050 Application and determination of completeness.

(1) Project permit applications shall be submitted using current forms provided by the review authority. The submittal shall include: all applicable fees per Chapter 22.25 WCC, all materials required by the department’s administrative manual, and all items identified in the preapplication notice of site-specific submittal requirements.

(2) Upon submittal by the applicant, the county will accept the application and note the date of receipt. Receipt of an application does not constitute approval of the project proposal.
(3) Within 14 calendar days\(^2\) of receiving the application, the county shall provide to the applicant a written determination which states either that the application is complete or the application is incomplete. To the extent known by the county, other agencies of local, state, or federal government that may have jurisdiction shall be identified on the determination.

(4) A project permit application is complete when it meets the submittal requirements of the department’s administrative manual, includes items identified through the preapplication conference process and contains sufficient information to process the application even if additional information will be required. A determination of completeness shall not preclude the county from requiring additional information or studies at any time prior to permit approval. A project permit application shall be deemed complete under this section if the county does not issue a written determination to the applicant that the application is incomplete by the end of the 14\(^{th}\) calendar day from the date of receipt.

(5) If the application is determined to be incomplete, the following shall take place:

(a) The county will notify the applicant that the application is incomplete and indicate what is necessary to make the application complete.

(b) The applicant shall have 90 calendar days from the date that the notification was issued to submit the necessary information to the county. If the applicant does not submit the necessary information to the county in writing within the 90-day period, the application shall be rejected. The director or designee may extend this period for an additional 90 calendar days upon written request by the applicant.

(c) Upon receipt of the necessary information, the county shall have 14 calendar days to make a determination and notify the applicant whether the application is complete or what additional information is necessary.\(^3\)

(6) A determination of an incomplete application is an appealable final administrative determination, subject to WCC 22.05.160(1).

22.05.060 Vesting. [The proposal would replace the County’s vesting provisions of WCC 20.04.031 in this subsection so that they will clearly apply to all development permits (not just those listed in Title 20 Zoning) and to add clearer language that is more consistent with wording in state law and with recent court decisions. The current WCC 20.04.031(1)’s definition of project permit is proposed to be deleted, with a new reference to the County Code’s definition (consistent with state law) to be added to 22.05.010.]

(1) Complete applications. For a project permit application the department has determined to be complete per WCC 22.05.050(4), the application shall be

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\(^2\) RCW 36.70B.070(1) allows 28 days; Title 21 currently has 28 days for subdivision plat applications, which would be changed to 14 days under this proposal.

\(^3\) RCW 36.70B.070(4)(b)
considered under the zoning or other land use control ordinances in effect on the date the application was submitted to the department.

(2) Incomplete applications. For a project permit application the department has determined to be incomplete per WCC 22.05.050(5), the application shall be considered under the zoning or other land use control ordinances in effect on the date the department determines the application to be complete based on the necessary information required by the department.

(3) Applications subject to preapplication conference. Notwithstanding the provisions of subsections (1) and (2) of this section, for a project permit application that is (a) subject to a preapplication conference per WCC 22.05.020 and .040, (b) submitted no more than 28 calendar days from the date the department issued its notice of site-specific submittal requirements, and (c) determined complete by the department, the application shall be considered under the zoning or other land use control ordinances in effect on the date the preapplication conference request was submitted to the department.

[Proposed subsection (3) would prevent the requirement of a preapplication meeting from delaying vesting, provided the preapplication materials are complete enough that a building permit can be issued within 30 days of the preapplication findings. (See West Main Assocs. vs. Bellevue decision)]

(4) Continuation of vesting. Building or land disturbance permit applications that are required to complete a valid (i.e. not expired) project permit approval for project permits identified in the following list (a-m) shall vest to the zoning and land use control ordinances in effect at the time the project permit application identified below was determined complete.

(a) Administrative Use;
(b) Commercial Site Plan Review;
(c) Conditional Use;
(d) Critical Areas Variance;
(e) Major Project Permit;
(f) Natural Resource Review;
(g) Planned Unit Development;
(h) Reasonable Use (Type II and III);
(i) Shoreline Conditional Use;
(j) Shoreline Exemption;
(k) Shoreline Substantial;
(l) Shoreline Variance;
(m) Zoning Variance.

(5) Building permit applications within recorded long and short subdivisions and binding site plans. Building permit applications, including associated land disturbance permits, shall be governed by conditions of approval, statutes, and ordinances in effect at the time of final approval pursuant to RCW 58.17.170.
Vesting duration for those building permit applications shall be governed by the time limits established for long subdivisions in RCW 58.17.170, unless the county finds that a change in conditions creates a serious threat to the public health or safety.

[Under this proposal, the 5- or 7-year vesting that applies specifically to long plats in RCW 58.17.170 is proposed to be extended to short plats and binding site plans. This is intended to provide greater clarity and predictability, and to be consistent with recent case law. Based on the County’s current understanding of statute and case law, water rights are not currently considered “zoning or other land use controls.”]

(6) Building and fire code requirements. Building and fire code provisions adopted per WCC Title 15 vest at the time a building permit application is determined complete.

[The proposed subsection clarifies that building and fire code vests at the time of complete building permit application, whereas land use controls (e.g. zoning and critical areas) vest with the original project permit, consistent with current 20.04.031(3)(d).]

(7) Duration. Vesting status established through subsections (1) through (5) of this section runs with the application and expires upon denial of the application by the county, withdrawal of the application by the applicant, rejection of the application per WCC 22.05.050(5), expiration of the application per WCC 22.05.130(1)(a)(i), or expiration of the approved permit per WCC 22.05.140.

[Current 20.04.031(1) through (5) on vesting to be deleted:]

22.05.070 Notice of application.
(1) For Type II, III, and IV applications per WCC 22.05.020, the county shall issue a notice of application within 14 calendar days⁴ of a determination of completeness. The date of notice shall be the date of mailing.

(2) If the county has made a State Environmental Policy Act (SEPA) threshold determination of significance concurrently with the notice of application, the county shall combine the determination of significance and scoping notice with the notice of application.

(3) Notice shall include:

(a) The date of application, the date of determination of completeness for the application, and the date of the notice of application;

(b) A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the county;

⁴ RCW 36.70B.110(2)
(c) The identification of other permits not included in the application to the extent known by the county;

(d) The identification of environmental reviews conducted, including notice of existing environmental documents that evaluate the proposed project (including but not limited to reports, delineations, assessments and/or mitigation plans associated with critical area reviews) and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

(e) Any other information determined appropriate by the county;

(f) A statement indicating those development regulations that will be used for project mitigation or a determination of consistency if they have been identified at the time of notice;

(g) A statement of the minimum public comment period which shall be 14 calendar days for all project permits except for shoreline substantial development, shoreline conditional use, shoreline variance and major project permits for mitigation banks which shall have a minimum comment period of no more than 30 calendar days.

(h) A statement of the right of any person to comment on the application and receive notice of and participate in any hearings, request a copy of the decision once made and to appeal a decision when allowed by law. The department may accept public comments at any time prior to the close of the open record public hearing, or if there is no public hearing, prior to the decision on the project permit. In addition, the statement shall indicate that any person wishing to receive personal notice of any decisions or hearings must notify the department.

(4) The department shall issue a notice of application in the following manner:

(a) The notice shall be published once in the official county newspaper and on the Whatcom County website. The applicant shall bear the responsibility of paying for such notice.

[As a courtesy the department also provides notice to other publications and individuals who have submitted a written request to receive such notice through the County’s web site.]

(b) Additional notice shall be given using the following method:

(i) For sites within urban growth areas: Application notice shall be sent to all property owners within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor;

(ii) For sites outside urban growth areas: Application notice shall be sent to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor;

(5) The county shall send notices of application to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly, by
the proposed development. Notice shall also be given to public utilities, if within
500 feet of the area submitted in the application.

(6) All public comments received on the notice of application must be received by
the department of planning and development services by 4:30 p.m. on or before
the last day of the comment period.

(7) Except for a determination of significance, the county shall not issue its SEPA
threshold determination or issue a decision or recommendation on a permit
application until the end of the public comment period on the notice of application.
If an optional determination of nonsignificance (DNS) process is used, the notice of
application and DNS comment period shall be combined.

(8) Public notice given for project permit applications, SEPA documents, project
hearings, and appeals hearings as required by this chapter and other provisions of
the county code may be combined when practical, where such combined notice will
expedite the permit review process, and where provisions applicable to each
individual notice are met through the combined notice.

22.05.080 Posting of Application. [existing text from 20.84.235(2)]
Where posting of public notice is required per WCC 22.05.020, the department shall
post public notices of the proposal on all road frontages of the subject property and
adjacent shorelines on or before the notice of application date and shall be visible
to adjacent property owners and to passing motorists. Said notices shall remain in
place until three days after the comment period closes.

22.05.090 Open record hearings.
As shown in WCC 22.05.020, Type III and Type IV applications require an open
record public hearing. These hearings are subject to the following:

(1) Open record hearing notice.

(a) The hearing examiner shall publish a notice of open record hearing once in
the official county newspaper and on the Whatcom County website at least 14
calendar days prior to the hearing. The notice shall consist of the date, time,
place, and type of the hearing. In addition, personal notice shall be provided to
any person who has requested such notice in a timely manner, consistent with
WCC 22.05.070(3)(h).

(b) Within two days of the published notice the applicant shall be responsible
for posting three copies of the notice in a conspicuous manner on the property
upon which the use is proposed. Notices shall be provided by the hearing
examiner.

(c) An affidavit verifying distribution of the notice must be submitted to the
hearing examiner two working days prior to the open record hearing.

(d) The hearing examiner shall send notice of an open record hearing to
neighboring cities and other agencies or tribes that will potentially be affected,
either directly or indirectly by the proposed development. The hearing examiner
shall be responsible for such notification.
(e) The applicant shall pay all costs associated with providing notice.

(2) One open record hearing. A project proposal subject to WCC 22.05 shall be provided with no more than one open record hearing and one closed record hearing pursuant to RCW 36.70B. This restriction does not apply to an appeal of a determination of significance as provided in RCW 43.21C.075.

(3) Combined county and agency hearing. Unless otherwise requested by an applicant, the county shall allow an open record hearing to be combined with a hearing that may be necessary by another local, state, regional, federal or other agency for the same project if the joint hearing can be held within the time periods specified in WCC 22.05, or if the applicant agrees to waive such time periods in the event additional time is needed in order to combine the hearings. The combined hearing shall be conducted in Whatcom County pursuant to RCW 36.70B.

(4) Quasi-judicial actions, including applications listed as Type III and IV applications in WCC 22.05.020, are subject to the appearance of fairness doctrine, RCW 42.36. The hearing examiner shall administer the open record hearing and issue decisions or recommendations in accordance with RCW 42.36.

22.05.100 Consistency review and recommendations.
During project permit review, the review authority shall determine if the project proposal is consistent with the county’s comprehensive plan, other adopted plans, existing regulations and development standards.

(1) For Type I and II applications, the conclusions of a consistency determination made under this section shall be documented in the project permit decision.

(2) For Type III and IV applications the department shall prepare a staff report on the proposed development or action. Staff shall file one consolidated report with the hearing examiner at least 10 calendar days prior to the scheduled open record hearing. The staff report shall:

(a) Summarize the comments and recommendations of county departments, affected agencies, special districts and public comments received within the 14-day or 30-day comment period as established in WCC 22.05.070(6).

(b) Provide an evaluation of the project proposal for consistency as indicated in this section.

(c) Include recommended findings, conclusions, and actions regarding the proposal.

[The proposal to change the staff report time frame to ten days is consistent with public notice publication requirements of 22.05.090(1)(a).]

(3) For all project permit applications, if more information is required to determine consistency at any time in review of the application, the department may issue a notice of additional requirements. The notice of additional requirements shall allow
the applicant 180 calendar days from the date of issuance to submit all required information. The director or designee may extend this period for no more than cumulative 24 months upon written request by the applicant, provided the request is submitted before the end of the first 180-day period. A notice of additional requirements is not a final administrative determination.

[Proposed subsection (3) codifies a 180-day response period for NOAR, consistent with current PDS practice.]

22.05.110 Final decisions.
(1) The director or designee’s final decision on all Type I or II applications shall be in the form of a written determination or permit. The determination or permit may be granted subject to conditions, modifications, or restrictions that are necessary to comply with all applicable codes.

(2) The hearing examiner’s final decision on all Type III applications per WCC 22.05.020 or appeals per 22.05.160(1) shall either grant or deny the application or appeal.

(a) The hearing examiner may grant Type III applications subject to conditions, modifications or restrictions that the hearing examiner finds are necessary to make the application compatible with its environment, carry out the objectives and goals of the Comprehensive Plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County.

(b) Performance bonds or other security, acceptable to the prosecuting attorney, may be required to ensure compliance with the conditions, modifications and restrictions.

(c) The hearing examiner shall render a final decision within 14 calendar days following the conclusion of all testimony and hearings. Each final decision of the hearing examiner shall be in writing and shall include findings and conclusions based on the record to support the decision.

(d) No final decision of the hearing examiner shall be subject to administrative or quasi-judicial review, except as provided herein.

(e) The applicant, any party of record or any county department may appeal any final decision of the hearing examiner to superior court, except as otherwise specified in WCC 22.05.020.

[22.05.020 proposes changing the appeal body from County Council to Superior Court to separate legislative and quasi-judicial functions. Accordingly, the current 20.92.620 through .840, which describes the County Council appeal process, is proposed to be omitted.]

22.05.120 Recommended decisions to county council.
(1) For Type IV applications per WCC 22.05.020 the hearing examiner’s recommendations to the county council may be to grant, grant with conditions or deny an application. The hearing examiner’s recommendation may include conditions, modifications or restrictions as may be necessary to make the
application compatible with its environment, carry out the objectives and goals of the Comprehensive Plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County.

(2) Each recommended decision of the hearing examiner for an application identified as a Type IV application per WCC 20.05.020 shall be in writing to the clerk of the county council and shall include findings and conclusions based upon the record to support the decision. Such findings and conclusions shall also set forth the manner in which the decision carries out and conforms to the county’s Comprehensive Plan and complies with the applicable statutes, ordinances or regulations.

(3) The deliberation of the county council on quasi-judicial actions shall be in accordance with WCC 22.05.090(4) and Chapter 42.36 RCW.

(4) For planned unit developments and major project permits the following shall apply:

(a) The recommendation of the hearing examiner regarding planned unit developments and major project permits shall be based upon the criteria set forth in WCC 20.85.335 and 20.88.130, respectively.

(b) The hearing examiner shall file the recommendation with the clerk of the county council within 21 calendar days following the conclusion of the open record hearing.

(c) Within 28 calendar days after the hearing examiner’s recommendation has been filed, the county council shall hold a public meeting, not an open record public hearing, to deliberate on the project application and, within 21 calendar days of the meeting, issue a final written decision. The county council may exceed the time limits in this subsection if it makes written findings that a specified amount of additional time is needed to process a specific application or project type, per RCW 36.70B.080(1).

[The optional review by Planning Commission is proposed for omission because that step makes it difficult to complete the project review within 120 days required in proposed 22.05.130(1)]

(5) The county council’s final written decision may include conditions when the project is approved and shall state the findings of fact upon which the decision is based.

(6) Any deliberation or decision of the county council shall be based solely upon consideration of the record established by the hearing examiner, the recommendations of the hearing examiner and the criteria set forth in county code.

220.130 Permit review timeframes.
(1) The county shall issue a notice of final decision for all permit types, including procedures for administrative appeal and notice that affected property owners may request a change in valuation for property tax purposes, to the applicant, the Whatcom County assessor, and any person who requested notice or submitted
substantive comments on the application within 120 calendar days of the date the department determined the application complete⁵, except as provided below:

(a) The following time periods shall be excluded from the calculation of the number of days elapsed:

(i) Any period during which the applicant has been required by the county to correct plans, perform required studies, or provide additional, required information through a notice of additional requirements, per WCC 22.05.100(3). The period shall be calculated from the date the county issues a notice of additional requirements until the date the county receives all of the requested additional information.

(ii) Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW and WCC Title 16;

(iii) The period specified for administrative appeals of project permits as provided in Chapter 2.11 WCC;

(iv) The period specified for administrative appeals of development standards as provided in WCC 12.08.035(I);

(v) Any period in which the applicant has not met public notification requirements;

(vi) Any period of time mutually agreed upon in writing by the applicant and the county.

(b) The time limits established by this section shall not apply to a project permit application that:

(i) Requires an amendment to the Whatcom County comprehensive plan or a development regulation in order to obtain approval.

(ii) Requires approval of a new fully contained community as provided in RCW 36.70A.350, a master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.70A.200.

(iii) Is substantially revised by the applicant, including all redesigns of proposed land divisions, in which case a new time period shall start from the date at which the revised project application is determined to be complete.

(c) The county may extend notice of final decision on the project if the county can document legitimate reasons for such a delay. In such a case the county shall provide written notice to the applicant at least 14 calendar days prior to the deadline for the original notice of final decision. The notice shall include a

⁵ RCW 36.70B.130
statement of reasons why the time limits have not been met and a date of
issuance of a notice of final decision.

(2) If an applicant believes a project permit application has not been acted upon by
the county in a timely manner or otherwise consistent with this chapter, the
applicant or authorized representative may request a meeting with the director to
resolve the issue. Within 14 calendar days of the meeting, the director shall:

(a) Approve the permit if it is within the director’s authority to do so, provided
the approval would not violate state or county regulations, or

(b) Deny the permit if it is within the director’s authority to do so, or

(c) Respond in writing with the department’s position, or a mutually acceptable
resolution of the issue, which may include a partial refund of application fees at
the director’s discretion.

[This proposed change is intended to maintain accountability on the part of
the county and provide an avenue for resolving disputes, while removing a
provision that could potentially approve an application that violates state
or county regulations.

(3) Any final order, permit decision or determination issued by Whatcom County
shall include a notice to the applicant of his or her appeal rights per WCC
22.05.160.

22.05.140 Expiration of project permits.
(1) Project permit approval status shall expire two years from the date of approval
except where a different duration of approval is authorized by Whatcom County
Code, or is established by a court decision or state law, or executed by a
development agreement. The decision maker may extend this period up to one year
from the date of original expiration upon written request by the applicant.

(2) Any complete project permit application for which no information has been
submitted in response to the department’s notice of additional requirements per
WCC 22.05.100(3) shall expire at the end of the time limit established in
22.05.100(3).

[This provision for applications to expire after no response within the
NOAR time frames allows for consistent predictable outcomes, and
establishes clear expectations.]

(3) For projects that have received a SEPA determination of significance per WCC
16.08, all underlying project permit applications shall expire when one of the
following occurs:

(a) The applicant has not in good faith maintained a contract with a person or
firm to complete the Environmental Impact Statement (EIS) as specified in the
scoping document. The applicant is responsible for informing the county of the
status of such contract. If there is no notice given to the County, all underlying
project permit applications shall expire upon the end date of the contract; or
(b) The mutually agreed timeframe to complete the Draft EIS or Final EIS has lapsed.

(4) Project permits which received preliminary approval or a final decision prior to February 22, 2009 that did not include an expiration timeframe in the conditions of approval shall expire on [two years after the effective date of this ordinance].

[Proposed subsection (4) allows opportunity to obtain approval or implementation within two years for projects without an approval timeframe.]

22.05.150 Permit revocation procedure.
(1) Upon notification by the director that a substantial violation of the terms and conditions of any previously granted zoning conditional use, shoreline substantial development or shoreline conditional use permit exists, the hearing examiner shall issue a summons as per WCC 2.11.220 to the permit holder requiring said permit holder to appear and show cause why revocation of the permit should not be ordered. Failure of the permit holder to respond may be deemed good cause for revocation.

(2) Upon issuance of a summons as set forth in subsection (1) of this section, the hearing examiner shall schedule an open record hearing to review the alleged violations. The summons shall include notice of the hearing and shall be sent to the permit holder and the director of planning and development services no less than 12 calendar days prior to the date of the hearing. At the hearing the hearing examiner shall receive evidence of the alleged violations and the responses of the permit holder, as per the business rules of the hearing examiner’s office. Testimony shall be limited to that of the division and the permit holder except where additional evidence would be of substantial value in determining if revocation should be ordered. The land use division’s evidence may include the testimony of witnesses.

(3) Upon a showing of violation by a preponderance of the evidence as alleged, the hearing examiner may revoke the permit or allow the permit holder a reasonable period of time to cure the violation. If the violation is not cured within the time set by the hearing examiner, the permit shall be revoked. Where a time to cure the violation has been set out, no further hearing shall be necessary prior to the revocation. The permit holder shall have the burden of proving that the violation has been cured within the time limit previously set. Such evidence as is necessary to demonstrate that the violation has been cured may be submitted to the hearing examiner by either the permit holder or the director of planning and development services. Any revocation shall be accompanied by written findings of fact and conclusions of law. The permit holder shall be notified of any revocation within 14 calendar days of the revocation.

22.05.160 Appeals.
(1) Any party of record may appeal any order, final permit decision or final administrative determination made by the director or designee in the administration or enforcement of any chapter to the hearing examiner, who has the authority to hear and decide such appeals per WCC 2.11.210.
(a) An appeal shall be filed with the department within 14 calendar days of the issuance of a final permit decision and shall be accompanied by a fee as specified in the Unified Fee Schedule. The written appeal shall include:

(i) The action or decision being appealed and the date it was issued;

(ii) Facts demonstrating that the person is adversely affected by the decision;

(iii) A statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;

(iv) The specific relief requested; and

(v) Any other information reasonably necessary to make a decision on the appeal.

[Proposed items 1(a)(i)-(v) are copied from Bellingham Municipal Code 21.10.250]

(b) The hearing examiner shall schedule a public hearing on the appeal to be held within 60 calendar days following the department’s receipt of the application for appeal unless otherwise agreed upon by the county and the appellant.

(2) The applicant, any party of record, or any county department may appeal any final decision of the hearing examiner to Superior Court or other body as specified by WCC 22.05.020. The appellant shall file a written notice of appeal within 14 calendar days of the final decision of the hearing examiner.

22.05.170 Annual report.
Staff shall prepare an annual report on the implementation of this chapter and submit it to the council.

22.05.180 Interpretation, conflict and severability.

(1) Interpret to Protect Public Welfare. In the event of any discrepancies between the requirements established herein and those contained in any other applicable regulation, code or program, the regulations which are more protective of the public health, safety, environment and welfare shall apply.

(2) Severability. The provisions of this chapter are severable. If a section, sentence, clause, or phrase of this title is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the remaining portions of this chapter.
Chapter 22.10

LEGISLATIVE ACTION PROCEDURES

(This new chapter is adapted from the current Chapter 2.160 Comprehensive Plan Amendments, and Chapter 20.90 Amendments, along with new text that combines and streamlines existing process descriptions. Current text is shown in normal black font, with proposed changes shown in red. The current chapter/section numbers are shown as deleted with the proposed numbers replacing them.)

Sections:
22.10.010 Purpose and applicability.
22.10.020 The docket.
22.10.030 Processing of docketed amendments.
22.10.040 Concurrent review of comprehensive plan amendments
22.10.050 Notice of public hearing.
22.10.060 Approval criteria.

22.10.010 Purpose and applicability.
This chapter establishes the procedures for legislative actions amending the Whatcom County Comprehensive Plan and the development regulations that implement that plan. Amendments to the comprehensive plan includes changes to the plan’s text and maps, and amendments to the development regulations include changes to the official zoning map and the text in WCC Titles 16, 20, 21, and 23. For purposes of this chapter, comprehensive plan amendments include amendments to subarea plans.

22.10.020 The docket.
(1) The department of planning and development services ("department") shall maintain a proposed docket of comprehensive plan and development regulation amendment applications and shall present it to the county council for review once a year on or about March 1. The county council may, by resolution, approve a docket listing all applications that may be processed per the provisions of this chapter.

(2) The department, the executive, the planning commission, or the county council by majority vote, may place a proposed amendment on the docket at any time.

(3) A party other than the county council, executive, the planning commission or the department may suggest an amendment to the comprehensive plan or development regulations by making application on forms provided by the department and submitting any required docketing fee.

(a) Applications for suggested amendments must be submitted by December 31 in order to be included on the proposed docket presented to the county council at its next annual docket review. The department shall review the application for completeness and may request additional information to ensure the application is complete before scheduling it for the annual docket review.
(b) If the county council docket a suggested amendment, all required amendment application fees are due within 30 calendar days after it is docketed. If all fees are not paid within 30 calendar days after being docketed, the department shall close the application and remove it from the docket. When docketing an application, the county council may waive the application fees if it finds the proposed amendment would clearly benefit the community as a whole.

[The intent of proposed section 22.10.020(1)-(3) is to clearly differentiate between the proposed docket presented by the department, and the final docket approved by resolution of the County Council. RCW 36.70.470’s allowance for suggested amendments is accommodated, with the requirement that the suggestion be accompanied by a completed application and a docketing fee (not the full application fee, which is charged if it is docketed, unless waived by the County Council; the “clearly benefit the community” finding is currently required in WCC 2.160.110.])

(4) The county council, by majority vote, may remove a proposed amendment from the approved docket by motion, unless:

(a) the amendment was proposed by a party other than the county council or the department per WCC 22.10.020(3), and
(b) the applicant has provided all information required by the planning and development services department. The department shall notify the applicant not less than 30 calendar days prior to consideration of removal from the docket. If the county council has not acted upon a docketed proposed amendment during the year for which it has been docketed, the county council may place the amendment on the following year’s docket.

22.10.030 Processing of docketed amendments.
(1) The department shall review docketed comprehensive plan and development regulation amendment applications as provided below:

(a) For suggested amendment applications filed per WCC 22.10.020(3), the department shall evaluate the applications for completeness and may request additional information of the applicant prior to requesting the appropriate hearing body to schedule a public hearing. Where a development regulation amendment requires a comprehensive plan amendment, the two amendments shall be processed at the same time.

(b) The department shall conduct environmental review under SEPA and prepare a staff report including recommendations and/or options for each docketed amendment. Both the report and the result of the environmental review shall be forwarded to the planning commission, and to the applicable city staff if the proposed amendment applies to land within a city’s urban growth area.

(c) The staff report shall evaluate the proposed amendment(s) in relationship to the approval criteria of WCC 22.10.060, and consider any environmental impacts or mitigation measures identified by the Whatcom County SEPA official. If the proposed amendment includes land within a city’s urban growth area, the staff report shall also address any comments from the city regarding consistency with
the applicable city comprehensive plan and the ability of the city to provide needed utility services.

(2) Docketed comprehensive plan and development regulation amendment applications shall receive a public hearing by the planning commission subject to the notice requirements of 22.10.050. Following the public hearing, the planning commission shall vote to adopt findings of fact and recommended actions, which the department shall transmit to the county council. In addition to the public hearing, the planning commission may hold public work sessions to discuss a proposed amendment.

(3) The county council may hold a public hearing on the docketed amendment in addition to the planning commission’s public hearing. If the county council decides the public interest is better served by considering a final action that differs from the planning commission recommendation, the county council shall hold a public hearing. The county council, by majority vote, may adopt the amendment by ordinance, reject the amendment, or remand the proposed amendment to the planning commission for further review.

(4) Actions that are quasi-judicial as defined in 42.36.010 RCW (including but not limited to a zoning map amendment for a single lot) are subject to the appearance of fairness doctrine, Chapter 42.36 RCW. For a proposed amendment that is a quasi-judicial action, the planning commission and county council shall process the application in accordance with Chapter 42.36 RCW in addition to the requirements of this section.

22.10.040 Concurrent review of comprehensive plan amendments

(1) While public hearings and other public discussion of proposed comprehensive plan amendments may take place at any time of the year, the county council’s final review and adoption of those amendments shall take place concurrently, no more frequently than once per calendar year, in accordance with RCW 36.70A.130(2)(a). Final adoption should occur on or about February 1.

(2) The following comprehensive plan amendments are excluded from the requirement of annual concurrent review and may be adopted at any time:

(a) The initial adoption of a subarea plan,

(b) Adoption or amendment of the shoreline master program under procedures set forth in Chapter 90.58 RCW,

(c) The amendment of the capital facilities element concurrent with adoption or amendment of the county budget,

(d) Amendments needed to resolve an appeal of the comprehensive plan filed with the growth management hearings board or the court, or

(e) Amendments necessary in cases where the county council finds an emergency exists.
22.10.050 Notice of public hearing.
(1) The county shall publish notice of the public hearing at least once in the official county newspaper and on the Whatcom County web site no fewer than 10 calendar days prior to the hearing. The notice shall include the date, time, place, and subject of the hearing.

[As a courtesy the department also provides notice to other publications and individuals who have submitted a written request to receive such notice through the County's web site.]

(2) For public hearings involving a quasi-judicial zoning map amendment application, per WCC 22.10.030D, the county shall provide the following notice in addition to the requirements of subsection A of this section:

(a) The county shall mail notice to property owners as follows:

(i) For zoning map amendments within existing urban growth areas: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit mailing labels with a typed address for each of the above-referenced property owners.

(ii) For zoning map amendments outside existing urban growth areas: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit mailing labels with a typed address for each of the above-referenced property owners.

(iii) For zoning map amendments that involve rezoning property to an Airport Operations District: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 1,500 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit mailing labels with a typed address for each of the above-referenced property owners.

(vi) For zoning map amendments that involve rezoning property to a Mineral Resource Land designation: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 2,000 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit mailing labels with a typed address for each of the above referenced property owners.

(b) The county shall prepare and the applicant shall post signs giving notice of the hearing in conspicuous locations on the property at least 10 calendar days prior to the hearing.

(c) The county shall send notice to the appropriate city, when the proposed amendment is within or would expand the urban growth area, and to agencies,
school districts, and tribes that will potentially be affected by the proposed amendment at least 10 calendar days prior to the hearing.

(d) For sites within 4,500 feet of the runway of Lynden Airport or Floathaven Sea Plane Base: At least 10 calendar days prior to the scheduled hearing date, application notice shall be sent to the city manager (if applicable), airport board or commission (if applicable), and an official representative of the airport.

(e) For sites within 10,000 feet of the runway of Bellingham International Airport: At least 10 calendar days prior to the scheduled hearing date, application notice shall be sent to the Port of Bellingham.

(f) All notices shall specify the date, time, location, and purpose of the hearing and provide a description and the location of the proposed rezone. The public shall be invited to submit written comments and attend the hearing to provide oral comments.

22.10.060 Approval criteria.
(1) In order to approve a comprehensive plan amendment, the planning commission and the county council shall find all of the following:

(a) The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.

(b) Further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the amendment.

(c) The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

(i) The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

(ii) The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

(iii) Anticipated impact upon designated agricultural, forest and mineral resource lands.

(d) The amendment does not include or facilitate spot zoning.
Title 22 Amendments

(2) In order to approve an amendment to the development regulations, the planning commission and county council shall find that the amendment is consistent with the comprehensive plan.

Chapter 22.15

CODE COMPLIANCE PROCEDURES

(Reserved)

[This is a place-holder for a future consolidated chapter on enforcement procedures. It would largely be based on current Chapter 20.94 Enforcement and Penalties, with enforcement procedures from other titles added, because PDS staff enforces more than just Title 20 Zoning.]

Chapter 22.20

LAND USE AND DEVELOPMENT CODE INTERPRETATION PROCEDURES

[Based on City of Bellingham’s code interpretation process, BMC 21.10.270]

Sections:
22.20.010 Purpose and applicability.
22.20.020 Request for interpretation.
22.20.030 Procedure.
22.20.040 Factors for Consideration.
22.20.050 Issuance of Interpretation.
22.20.060 Appeals.

22.20.010 Purpose and applicability
(1) The purpose of this chapter is to establish the procedure for interpreting provisions of Whatcom County’s land use and development codes to clarify conflicting or ambiguous wording.

(2) The director of planning and development services (director) is authorized to make written interpretations of the provisions of the following titles of WCC:

(a) Title 16 Environment,
(b) Title 20 Zoning,
(c) Title 21 Land Division Regulations,
(d) Title 22 Land Use and Development Procedures, and
(e) Title 23 Shoreline Management.

(3) Issuance of an interpretation of the provisions of the code shall not amend the code.

**22.20.020 Request for interpretation.**
Anyone may request an interpretation consistent with the provisions of this chapter. Any person requesting an interpretation of the code shall submit a written request specifying each provision of the code for which an interpretation is requested, why an interpretation of each provision is necessary, and any reasons or material in support of a proposed interpretation.

**22.20.030 Procedure.**
(1) The director shall determine how to process the code interpretation request. The request may be:

(a) Processed as a Type I decision per WCC 22.05.020; or

(b) Consolidated with the process associated with the review of the application.

(2) The director shall consult with the Department of Ecology regarding any interpretation of the shoreline management program.

**22.20.040 Factors for consideration.**
In making an interpretation of the provisions of the code, the director shall consider the following:

(1) The applicable provisions of the code including their purpose and context;

(2) The impact of the interpretation on other provisions of the code;

(3) The implications of the interpretation for development within the county as a whole; and

(4) The applicable provisions of the comprehensive plan and other relevant codes and policies.

**22.20.050 Issuance of interpretation.**
The director shall issue a written interpretation within 30 calendar days of the department’s receipt of the interpretation request. Issuance of the interpretation shall include notification of the person making the request and publication of the interpretation on the county’s web site. The director may docket an amendment to clarify the affected section of county code per WCC 22.10.020(2).

**22.20.060 Appeals.**
Any party of record may file an appeal of a formal code interpretation. The appeal shall follow all rules and procedures for appeals to the hearing examiner as set forth in WCC 22.05.160.
Chapter 22.25

LAND USE AND DEVELOPMENT FEES

[Proposed to be moved from WCC 20.04.090 - .092 because it applies to all
land use and development fees, not just those in Title 20 zoning.]

Sections:
  22.25.010 Purpose and applicability
  22.25.020 Application fees and other fees.
  22.25.030 Reduced application fees.
  22.25.040 Refund of application fees.

22.25.010 Purpose and applicability
(1) The purpose of this chapter is to establish the authority for collecting fees for
various land use and development review services, as well as provisions for
reductions and refunds of those fees.

(2) The provisions of this chapter shall apply to fees charged for procedures
contained in the following titles of WCC:

(a) Title 15 Building and Construction,
(b) Title 16 Environment,
(c) Title 17 Flood Damage Prevention,
(d) Title 20 Zoning,
(e) Title 21 Land Division Regulations,
(f) Title 22 Land Use and Development Procedures, and
(g) Title 23 Shoreline Management.

22.25.020 Application fees and other fees.
Fees for project permit applications, legislative amendments and fees for other
approvals and reviews as set forth in this title shall be as provided in the Unified
Fee Schedule.

22.25.030 Reduced application fees.
When any given project requires more than one of the following permits or
applications, the total amount of fees shall be reduced by 25 percent of the
required aggregate permit and application fees; provided any fees required for
processing of an EIS shall not be included as part of the total amount of fees to be
reduced by 25 percent.

(1) Subdivision plat application;
(2) Rezone application;

(3) Shoreline substantial development permit, variance or conditional use;

(4) Major development permit;

(5) Conditional use permit;

(6) Variance;

(7) Planned unit development.

22.25.040 Refund of application fees.
Refunds of application fees for project permits and for amendments to the Whatcom County Comprehensive Plan, development regulations and official maps shall be computed based on the following, unless otherwise indicated in Whatcom County Code. All refund requests shall be submitted in writing to the department of planning and development services. The date of application for a refund request shall be the date the written refund request is received by the department. For the purpose of computing elapsed calendar days, the day after the date of application or deadline date as appropriate shall be counted as day one.

(1) Fees for Project Permits.

   (a) Applications withdrawn on or before the fourteenth calendar day after the date of application shall be eligible for a refund of 90 percent of all application fees including any SEPA fees.

   (b) Applications withdrawn after the period set forth in subsection (1)(a) of this section but on or before the ninetieth calendar day after the date of application shall be eligible for a refund of 50 percent of all application fees except for any SEPA fees which shall not be eligible for a refund.

   (c) Applications withdrawn after the ninetieth calendar day after the date of application shall not be eligible for a refund.

   (d) Notwithstanding the above, no fees shall be refunded for any permit or approval that has been issued or granted by the county.

   (e) The director may authorize a full refund of any project permit application fee paid in error.

(2) Fees for Amendments to the Whatcom County Comprehensive Plan, Development Regulations, and Official Maps.

   (a) Applications for amendments that are withdrawn on or before the fourteenth calendar day after the deadline for submitting the fee shall be eligible for a refund of 90 percent of all application fees including SEPA fees. If there is no deadline for submitting the fee, the 90-percent refund shall be given if the application is withdrawn on or before the fourteenth calendar day after the fee was submitted.
(b) Applications for amendments that are withdrawn after the period set forth in subsection (2)(a) of this section but on or before the ninetieth calendar day after the deadline for submitting the fee shall be eligible for a refund of 50 percent of all application fees except for SEPA fees which shall not be eligible for a refund. If there is no deadline for submitting the fee, the 50-percent refund shall be given if the application is withdrawn on or before the ninetieth calendar day after the fee was submitted.

(c) Applications for amendments that are withdrawn after the 90 calendar days shall not be eligible for a refund.

(3) Withdrawal of an application shall constitute full surrender of any express or implied rights inherent in an application which has been perfected and accepted by the planning and development services department or its designees.
EXHIBIT A

Whatcom County Code Title 22

AMENDMENTS

Title 22

Reserved

Land Use and Development Procedures

[This would create a new WCC Title 22 that would be the location for all procedural requirements for land use and development applications, separate from the land use and development regulations. This takes the place of the previous Title 22, the Guide Meridian Improvement Plan, which was repealed during the 2016 Comprehensive Plan update.]

Chapters:

22.05 Project Permit Procedures
22.10 Legislative Action Procedures
22.15 Code Compliance Procedures
22.20 Land Use and Development Code Interpretation Procedures
22.25 Land Use and Development Fees

Chapter 22.05

PROJECT PERMIT PROCEDURES

[This new chapter is adapted mostly from the current Chapter 2.33 Permit Review Procedures, and procedural passages from other chapters. Current text is shown in normal black font with proposed changes shown in red. The current chapter/section numbers are shown as deleted with the proposed numbers replacing them.]

Sections:
22.05.010 Purpose and applicability.
22.05.020 Project permit processing table.
22.05.030 Consolidated permit review.
22.05.040 Preapplication conference.
22.05.050 Application and determination of completeness.
22.05.060 Vesting.
22.05.070 Notice of application.
22.05.080 Posting of application.
22.05.090 Open record hearings.
22.05.100 Consistency review and recommendations.
22.05.110 Final decisions.
22.05.120 Recommended decisions to county council.
22.05.130 Permit review timeframes.
22.05.140 Expiration of project permits.
22.05.150 Permit revocation procedure.
22.05.160 Appeals.
22.05.170 Annual Report.
22.05.180 Interpretation, conflict, and severability.

2.33.010-22.05.010 Purpose and applicability.
A-(1) The purpose of this chapter is to combine and consolidate the application, review, and approval processes for project permits and appeals as defined in WCC 20.97.321. consolidate the application, review, and approval processes for land development in Whatcom County in a manner that is easily understood and concise. It is further intended for this chapter to comply with state direction the provisions of Chapter 36.70B RCW. These procedures provide for a consolidated land use permit process and integrate the environmental review process with the procedures for review of land use decisions.

B-(2) This chapter describes how the county will apply to the processing of project permit applications for development and appeals related to the provisions of WCC Title 15 Building and Construction, Title 16 Environment, Title 17 Flood Damage Prevention, Title 20 Zoning, Title 21 Land Division Regulations, and Title 23 Shoreline Management. The provisions of this chapter shall apply to all project permit applications as defined in RCW 36.70B.020, and other administrative decisions, as listed in the table in WCC 22.05.020, for a project permit that require an open record hearing including, but not limited to:

1. Conditional uses;
2. Variances;
3. Subdivisions;
4. Shoreline permits when an open record hearing is required;
5. General binding site plans;
6. Lot consolidation relief;
7. Site-specific rezones;
8. Reasonable use.

2.33.020 Exemptions:
The following are exempt from the provisions of this chapter:
A. Project permits not subject to open record hearings; including, but not limited to; building permits and short plats, are exempt from the provisions of this chapter;
provided, that:
1. The county shall make a determination of completeness pursuant to WCC 2.33.050; and
2. A final decision is made by the county pursuant to WCC 2.33.090;
   a. Within 90 days of a determination of completeness if the project is exempt from SEPA review unless a shorter review period is provided in other provisions of the Whatcom County Code;
   b. Within 120 days of a determination of completeness if the project is subject to SEPA review unless a shorter review period is provided in other provisions of the Whatcom County Code;
B. Planned unit development permits; provided, that the county shall make a determination of completeness pursuant to WCC 2.33.050;
C. Major development permits; provided, that the county shall make a determination of completeness pursuant to WCC 2.33.050;
D. Concomitant rezones; provided, that the county shall make a determination of completeness pursuant to WCC 2.33.050;
E. Legislative actions including standard map amendments, comprehensive plans or other related plans and regulations.

22.05.020 Project Permit Processing Table
(1) Marked boxes in the table below indicate the required general steps for processing all project permit applications or administrative actions. The requirements for each step listed in the top row of the table are provided in WCC sections 22.05.040 through 22.05.160, as indicated. Specific requirements for each project permit can be found through the references given in the table.
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<th>Notice of Application Required (see 22.05.070)</th>
<th>Site Posting Required (see 22.05.080)</th>
<th>Legal Notice of Open Record Hearing Required (see 22.05.090)</th>
<th>Open Record Hearing Held By (see 22.05.090)</th>
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<td><strong>Type IV Applications</strong> (County Council decision with public notice and public hearing)</td>
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Check marks indicate a step is required; reference letters refer to the notes in subsection (2).
(2)) Project Permit Processing References Table Notes. As indicated in the table in subsection (1), project permits are subject to the following additional requirements:

(a) Pre-application conferences subject to Title 23 Shoreline Master Program.

(b) Single family residential uses in critical areas or critical area buffers, except all uses in geological hazardous areas and setbacks.

(c) Shoreline Permit public hearing decision determined pursuant to Title 23 Shoreline Master Program. If a public hearing is required the Shoreline Permit shall be processed as a Type III application.

(d) Final decision filed with the Washington State Department of Ecology.

(e) All uses in a geological hazardous areas and setbacks and all non-single family residential uses in critical areas or critical area buffers.

(f) Building permit pre-application conference, subject to WCC 15.04.020(A)(3)(a).

(g) The hearing examiner may choose to consult with the development standards technical advisory committee concerning technical matters relating to land division applications. [from WCC 21.01.170]

(h) Whatcom County shall consider an appeal of a decision on a shoreline substantial development permit, shoreline variance, or shoreline conditional use only when the applicant/proponent waives his/her right to a single appeal to the shoreline hearings board. When an applicant/proponent has waived his/her right to a single appeal, such appeals shall be processed in accordance with the appeal procedures of subsection WCC 23.60.150.H.

(i) Except that appeals of Title 15 fire and building code requirements shall be made to the board of appeals per current building code, as adopted in WCC 15.04.010.

22.05.030 Consolidated permit review.¹

A. At the request of the applicant, the county shall integrate and consolidate the review and decision on two or more project permits subject to this chapter that relate to the proposed project action unless the applicant requests otherwise. Consolidated Type I, II, III and IV permits shall be reviewed under the process required for the permit with the highest process type number per WCC 22.05.020. Level IV is considered the highest and Level I is considered the lowest process type.

B. If the applicant elects the consolidated permit review process, the determination of completeness, notice of application, and notice of final decision must include all project permits being reviewed through the consolidated permit review process.

¹ RCW 36.70B.060(3)
C. The consolidated permit review may combine an open record hearing on one or more permits with an open record appeal hearing on other permits.

2.33.030-22.05.040 Preapplication conference.

A.(1) The purpose of a preapplication conference is to assist applicants in preparing development applications for submittal to the county by identifying applicable regulations and procedures. It is not intended to provide a staff recommendation on future permit decisions. Preapplication review does not constitute acceptance of an application by the county nor does it vest an application, unless otherwise indicated in Whatcom County Code, is to acquaint county staff with a sufficient level of detail regarding the proposal. It is also the purpose of this to acquaint the applicant with the applicable requirements of the Whatcom County Code.

(1) A preapplication conference is required as indicated in WCC 22.05.020, unless the planning director or designee grants a written waiver. For other permits, the applicant may request a preapplication conference.

B.(2) WCC 2.33.020(A)22.05.020 indicates the project permits for which a preapplication conference may be requested is required prior to the submittal of a project permit application subject to this chapter. For other permits, the applicant may request a preapplication conference.

C.(32) The county shall charge the applicant a fee for a preapplication conference per the Unified Fee Schedule. If the county makes a determination of completeness on a project permit submitted within one year of the notice of site-specific submittal requirements per subsection (86) of this section, preapplication meeting, the preapplication fee shall be applied to the application cost.

D.(43) It is the responsibility of the applicant to initiate a preapplication conference through a written request or other means allowed by the technical administrator. The request shall, at a minimum, include the following written information: all items identified on the pre-application form and the department’s administrative manual.

1. Property owner’s name, address, phone number, fax number;
2. Applicant/project representative name, address, phone number, fax number;
3. Project site parcel number;
4. Project site address (if available);
5. Written description of the project;
6. One copy of the current deed to the property;
7. A site plan drawn at a scale of one inch equals 100 feet or larger that includes the following:
   a. North arrow;
   b. Scale;
   c. All existing and proposed property lines with dimensions of parcel;
   d. Location and size of existing and proposed structures labelled appropriately;
   e. Location and size of existing and proposed easements and/or rights-of-way on or adjacent to the project site,
f. Significant physical features such as drainageways, wet areas, steep or unstable slopes;

g. Location of utilities including wells and septic systems when applicable.

E.(5) The applicant may provide additional information to facilitate more detailed review. See WCC 2.33.040, Application submittal information, for additional submittal information. the department's administrative manual for additional submittal information.

F.(64) A preapplication conference shall be held-scheduled as soon as possible, but, in any event, no and held no later than 20-30 calendar days from the date of the applicant's request, unless agreed upon by the applicant and the county.

(75) The county Whatcom County planning and development services staff shall invite the appropriate city to the preapplication meeting if the project is located within that city's urban growth area. — Invitation to the pre-application meeting for a project permit short plat or preliminary plat adjacent to or within one mile of the municipal boundaries of a city, or which contemplates the use of any city utilities, shall be given to appropriate public agencies and public utilities, if within 500 feet of the area submitted in the application. [Subsection (75) wording is proposed to be moved from 21.01.090(2) so the requirement to involve cities in preapplication review would apply to all project permits, not just subdivisions. This is consistent with adopted interlocal agreements.]

(86) The county shall provide the applicant with notice of site-specific submittal requirements for application as soon as possible, but, in any event, no later than 10-14 calendar days from the date of the conference.

(97) Preapplication review and preapplication agreements shall be valid for one year. A new preapplication conference shall be required if, within one year of notice of site-specific submittal requirements per subsection (8) of this section, a preapplication meeting, an associated project permit application is not filed with the county within one year of the notice of site-specific submittal requirements per subsection (6) or the application is substantially altered, the applicant shall be subject to a new preapplication review with a corresponding fee, unless waived per WCC 22.05.040(1).

(10) Preapplication review does not constitute acceptance of an application by the county nor does it vest an application, unless otherwise indicated in Whatcom County Code.

2.33.05022.05.050 Permit receipt and Application, fees, and determination of completeness.

2.33.040 Application submittal information.
A: An application shall meet all submittal requirements before the proposal is submitted to the county for review. Upon submittal by the applicant, the county will accept the application and note the date of receipt. Receipt of an application does not constitute approval of the project proposal.
B. Within 14 days of accepting the application, the county shall make a determination of completeness or issue a determination that the application is incomplete.

C. A project permit application is complete when it meets the submittal information requirements of WCC 22.25 WCC, all materials required by the department’s administrative manual, and all items identified in the preapplication notice of site-specific submittal requirements. (Ord. 96-031 §1).

(1) Project permit applications shall be submitted using current forms provided by the review authority. The submittal shall include: all applicable fees per Chapter 22.25 WCC, all materials required by the department’s administrative manual, and all items identified in the preapplication notice of site-specific submittal requirements.

(2) Upon submittal by the applicant, the county will accept the application and note the date of receipt. Receipt of an application does not constitute approval of the project proposal.

(3) Within 14 calendar days² of receiving the application, the county shall provide to the applicant a written determination which states either that the application is

² RCW 36.70B.070(1) allows 28 days; Title 21 currently has 28 days for subdivision plat applications, which would be changed to 14 days under this proposal.
complete or the application is incomplete. To the extent known by the county, other agencies of local, state, or federal government that may have jurisdiction shall be identified on the determination.

(4) A project permit application is complete when it meets the submittal requirements of the department’s administrative manual, includes items identified through the preapplication conference process and contains sufficient information to process the application even if additional information will be required. A determination of completeness shall not preclude the county from requiring additional information or studies at any time prior to permit approval. A project permit application shall be deemed complete under this section if the county does not issue a written determination to the applicant that the application is incomplete by the end of the 14th calendar day from the date of receipt.

(5) If the application is determined to be incomplete, the following shall take place:

(a) The county will notify the applicant that the application is incomplete and indicate what is necessary to make the application complete.

(b) The applicant shall have 90 calendar days from the date that the notification was issued to submit the necessary information to the county. If the applicant does not submit the necessary information to the county in writing within the 90-day period, the application shall be rejected. The director or designee may extend this period for an additional 90 calendar days upon written request by the applicant.

(c) Upon receipt of the necessary information, the county shall have 14 calendar days to make a determination and notify the applicant whether the application is complete or what additional information is necessary.  

(6) A determination of an incomplete application is an appealable final administrative determination, subject to WCC 22.05.160(1).

20.04.031:22.05.060 Vesting of permits. [The proposal would replace the County’s vesting provisions of WCC 20.04.031 in this subsection so that they will clearly apply to all development permits (not just those listed in Title 20 Zoning) and to add clearer language that is more consistent with wording in state law and with recent court decisions. The current WCC 20.04.031(1)’s definition of project permit is proposed to be deleted, with a new reference to the County Code’s definition (consistent with state law) to be added to 22.05.010.]

(1) Complete applications. For a project permit application the department has determined to be complete per WCC 22.05.050(4), the application shall be considered under the zoning or other land use control ordinances in effect on the date the application was submitted to the department.

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3 RCW 36.70B.070(4)(b)
(2) Incomplete applications. For a project permit application the department has determined to be incomplete per WCC 22.05.050(5), the application shall be considered under the zoning or other land use control ordinances in effect on the date the department determines the application to be complete based on the necessary information required by the department.

(3) Applications subject to pre-application conference. Notwithstanding the provisions of subsections (1) and (2) of this section, for a project permit application that is (a) subject to a pre-application conference per WCC 22.05.020 and .040, (b) submitted no more than 28 calendar days from the date the department issued its pre-application meeting findings notice of site-specific submittal requirements, and (c) determined complete by the department, the application shall be considered under the zoning or other land use control ordinances in effect on the date the pre-application conference request was submitted to the department.

[Proposed subsection (3) would prevent the requirement of a pre-application meeting from delaying vesting, provided the pre-application materials are complete enough that a building permit can be issued within 30 days of the pre-application findings. (See West Main Assocs. vs. Bellevue decision)]

(4) Continuation of vesting. Building or land disturbance permit applications that are required to complete a valid (i.e. not expired) project permit approval for project permits identified in the following list (a-m) shall vest to the zoning and land use control ordinances in effect at the time the project permit application identified below was determined complete.

(a) Administrative Use;
(b) Commercial Site Plan Review;
(c) Conditional Use;
(d) Critical Areas Variance;
(e) Major Project Permit;
(f) Natural Resource Review;
(g) Planned Unit Development;
(h) Reasonable Use (Type II and III);
(i) Shoreline Conditional Use;
(j) Shoreline Exemption;
(k) Shoreline Substantial;
(l) Shoreline Variance;
(m) Zoning Variance.

(5) Building permit applications within recorded long and short subdivisions and binding site plans. Building permit applications, including associated land disturbance permits, shall be governed by conditions of approval, statutes, and ordinances in effect at the time of final approval pursuant to RCW 58.17.170. Vesting duration for those building permit applications shall be governed by the
time limits established for long subdivisions in RCW 58.17.170, unless the county finds that a change in conditions creates a serious threat to the public health or safety.

[Under this proposal, the 5- or 7-year vesting that applies specifically to long plats in RCW 58.17.170 is proposed to be extended to short plats and binding site plans. This is intended to provide greater clarity and predictability, and to be consistent with recent case law. Based on the County’s current understanding of statute and case law, water rights are not currently considered “zoning or other land use controls.”]

(6) Building and fire code requirements. Building and fire code provisions adopted per WCC Title 15 vest at the time a building permit application is determined complete.

[The proposed subsection clarifies that building and fire code vests at the time of complete building permit application, whereas land use controls (e.g. zoning and critical areas) vest with the original project permit, consistent with current 20.04.031(3)(d).]

(7) Duration. Vesting status established through subsections (1) through (5) of this section runs with the application and expires upon denial of the application by the county, withdrawal of the application by the applicant, rejection of the application per WCC 22.05.050(5), expiration of the application per WCC 22.05.130(1)(a)(i), or expiration of the approved permit per WCC 22.05.140.

[Current 20.04.031(1) through (5) on vesting to be deleted:]

(1) Project Permits Defined. For the purpose of this section, “project permit” and “project permit application” shall be as defined 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.

(2) Project Permits Approved Prior to Effective Date:

(a) Project permits which have been approved by Whatcom County on or before the effective date of the ordinance codified in this section are hereby deemed to be vested under the zoning and land-use regulations in effect at the time of the complete application therefor.

(b) Future building permits that may be required to construct or complete the project as originally approved shall be subject to the building codes in place at the time of the building permit application:
(3) Project Permit Applications Submitted After the Effective Date:

(a) Project permit applications submitted after the effective date of the ordinance codified in this section shall be vested under the zoning and land use regulations in effect at the time of application; provided, that the county has not subsequently notified the applicant that the application is incomplete.

(b) If the county has notified the applicant that the application is incomplete, the application shall not be deemed vested until the date the county notifies the applicant that the application is complete.

(c) Until the county implements RCW 36.70B.070, the county shall make the determination of completeness in accordance with its existing policy. Once the provisions of RCW 36.70B.070 regarding completeness are implemented, such provision shall govern the determination of a complete application.

(d) Future building permits that may be required to construct or complete the project as originally approved shall be subject to the building codes in place at the time of the building permit application.

(4) Project Permit Applications Submitted Prior to the Effective Date, But Which Have Not Received Final Approval on or Before the Effective Date:

(a) Project permit applications submitted prior to the effective date of the ordinance codified in this section but which have not received final approval on or before the effective date of the ordinance codified in this section shall be deemed vested under the zoning and land use regulations in effect at the time the county accepted payment of an application fee; provided, that the county has not subsequently notified the applicant that the application is incomplete.

(b) If the county has notified the applicant that the application is incomplete, the application shall not be deemed vested until the date the county notifies the applicant that the application is complete.

(c) Future building permits that may be required to construct or complete the project as originally approved shall be subject to the building codes in place at the time of the building permit application.

(5) Additional Provisions:

(a) Nothing herein shall restrict the county’s authority to impose conditions on project permits pursuant to the State Environmental Policy Act (SEPA); Chapter 43.21C RCW and WAC 197-11-600.

(b) Project permit applications for development of lots created by the short plat process shall comply with all development regulations, including but not limited to the critical areas ordinance, impervious surface restrictions, environmental work closure periods, and all other applicable code standards.

2.33.06.022.05.070 Notice of application for a proposed land use action.
A: (1) For Type II, III, and IV applications per WCC 22.05.020, the county shall issue a notice of application shall be issued for project permit applications within 14 calendar days\(^4\) after of a determination of completeness and at least 15 calendar days prior to the open record hearing. The date of notice shall be the date of mailing.

B: (2) If the county has made a State Environmental Policy Act (SEPA) threshold determination of significance concurrently with the notice of application, the county shall combine the determination of significance and scoping notice shall be combined with the notice of application.

C: (3) Notice shall include:

1. (a) The date of application, the date of notice of completion determination of completeness for the application, and the date of the notice of application;

2. The date, time, place and type of the hearing, if applicable, and scheduled at the date of notice of the application;

3. (b) A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the county;

4. (c) The identification of other permits not included in the application to the extent known by the county;

5. (d) The identification of environmental reviews conducted, including notice of existing environmental documents that evaluate the proposed project (including but not limited to reports, delineations, assessments and/or mitigation plans associated with critical area reviews) and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

6. (e) Any other information determined appropriate by the county;

7. (f) A statement indicating those development regulations that will be used for project mitigation or a determination of consistency if they have been identified at the time of notice;

8. (g) A statement of the limits of the public of the minimum public comment period which shall be the right of any person to comment on the application within a 1514 calendar days’ time period for all project permits except (30 calendar days) for shoreline substantial development permits, shoreline conditional use, shoreline variance and major project permits for mitigation banks which shall have a minimum comment period of no more than 30 calendar days).

\(^4\) RCW 36.70B.110(2)
(h) A statement of the right of any person to comment on the application and receive notice of and participate in any hearings, request a copy of the decision once made and to appeal a decision when allowed by law. The department may accept public comments at any time prior to the close of the open record public hearing, or if there is no public hearing, prior to the decision on the project permit. In addition, the statement shall indicate that any person wishing to receive personal notice of any decisions or hearings must notify the department, hearing examiner's office within 15 days (30 days for substantial development permits and major-project permits for mitigation banks) of the date of the notice of application.

D.(4) The department shall issue a notice of application shall be issued in the following manner:

1.(a) The notice shall be published once in the official county newspaper and on the Whatcom County website. The applicant shall bear the responsibility of paying for such notice.

[As a courtesy the department also provides notice to other publications and individuals who have submitted a written request to receive such notice through the County's web site.]

2.(b) Additional notice shall be given using the following method:

a.(i) For sites within urban growth areas: At least 12 days prior to the scheduled hearing date, a Application notice shall be sent to all property owners within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor. Applicants shall submit, with their completed application, a stamped envelope with a typed address for each of the above referenced property owners;

b.(ii) For sites outside urban growth areas: At least 12 days prior to the scheduled hearing date, a Application notice shall be sent to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor. Applicants shall submit, with their completed application, a stamped envelope with a typed address for each of the above referenced property owners;

3. All cost associated with providing notice shall be paid by the applicant.

E.(5) The county shall send notices of application should be sent to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly, by the proposed development. (The county shall be responsible for such notification.) Notice shall also be given to public utilities, if within 500 feet of the area submitted in the application.
F.(6) With the exception of substantial development permit applications and major project permit applications for mitigation banks, a public comment period shall be 15 calendar days following the date of notice of application. Substantial development permit applications and major project permit applications for mitigation banks require a 30-calendar day period. All public comments received on the notice of application must be received by the department of planning and development services by 4:30 p.m. on or before the last day of the comment period. The county may require the applicant to shall pay the cost of providing notice.

G.(7) No SEPA threshold determination until the expiration of the public comment period established for the notice of application. This condition shall not apply if a determination of significance is made by the county. Except for a determination of significance, the county shall not issue its SEPA threshold determination or issue a decision or recommendation on a permit application until the end of the public comment period on the notice of application. If an optional determination of nonsignificance (DNS) process is used, the notice of application and DNS comment period shall be combined.

H.(8) Public notice given for project permit applications, SEPA documents, project hearings, and appeals hearings as required by this chapter and other provisions of the county code may be combined when practical, where such combined notice will expedite the permit review process, and where provisions applicable to each individual notice are met through the combined notice.

22.05.080 Posting of public noticeApplication. [existing text from 20.84.235(2)]
Where posting of public notice is required per WCC 22.05.020, the applicant department shall post public notices of the proposal on all road frontages of the subject property and adjacent shorelines on or before the notice of application date and shall so as to be visible to adjacent property owners and to passing motorists. Said notices shall be provided to the applicant by the planning and development services department and shall remain in place until three days after the comment period closes for at least 15 days prior to the decision. A signed affidavit of posting shall be returned at least one week prior to the decision.

2.33.11022.05.090 Open record hearings.
As shown in WCC 22.05.020, Type III and Type IV applications require an open record public hearing. These hearings are subject to the following: Open record hearings subject to this chapter shall be undertaken pursuant to Chapter 20.92 WCC and other relevant chapters relating to specific permit processes.

20.92.215(1) Open record hearing notice.

Notice of the time and place of the open record hearing shall be given pursuant to WCC 2.33.060 and 2.33.070.
2.33.070 Notice of an open record hearing:
A: (a) The hearing examiner shall publish a notice of open record hearing shall be published by the hearing examiner once in the official county newspaper and on the Whatcom County website at least 1014 calendar days prior to an open record hearing. The notice shall consist of the date, time, place, and type of the hearing. In addition, personal notice shall be provided to any person who has requested such notice in a timely manner, consistent with WCC 2.33.060 22.05.0670(C)(3)(87h).

B: (b) Additional notice shall be given within two days of the published notice by posting of the applicant shall be responsible for posting three copies of the notice in a conspicuous manner on the property upon which the use is proposed. (Notices shall be provided by the county hearing examiner. The applicant shall be responsible for posting.)

C: (c) An affidavit verifying distribution of the notice must be submitted to the county hearing examiner two working days prior to the open record hearing.

D: (d) The hearing examiner shall send notices of an open record hearing should be sent to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly, by the proposed development. The county hearing examiner shall be responsible for such notification.

E: (e) The applicant shall pay all costs associated with providing notice shall be paid by the applicant.

20.92.220(2) Open record hearing.

A project proposal subject to Chapter 2.33—WCC 22.05 shall be provided with no more than one open record hearing and one closed record hearing pursuant to Chapter RCW 36.70B—RCW. This restriction does not apply to an appeal of a determination of significance as provided in RCW 43.21C.075.

20.92.221(3) Combined county and agency hearing.

When Unless otherwise requested by an applicant, the county shall allow an open record hearing to be combined with a hearing that may be necessary by another local, state, regional, federal or other agency for the same project if the joint hearing can be held within the time periods specified in Chapter WCC 2.33-22.05 WCC, or if the applicant agrees to waive such time periods in the event additional time is needed in order to combine the hearings. The combined hearing shall be conducted in Whatcom County pursuant to Chapter RCW 36.70B—RCW.

(4) Quasi-judicial actions, including applications listed as Type III and IV applications in WCC 22.05.020, are subject to the appearance of fairness doctrine, RCW 42.36. The hearing examiner shall administer the open record hearing and issue decisions or recommendations in accordance with RCW 42.36.

2.33.080 22.05.100 Consistency review and staff report recommendations.
A. Fundamental land-use planning choices made in adopted comprehensive plans and development regulations shall serve as the foundation for project review. During project permit review, the review authority shall determine if the project proposal is consistent with the county’s comprehensive plan, other adopted plans, existing regulations and development standards.

(1) For Type I and II applications, the conclusions of a consistency determination made under this section shall be documented in the project permit decision. The review authority shall at a minimum use four criteria for determining consistency, as follows:

1. Type of land-use permitted on the site;
2. Density of development allowed on-site, such as units per acre or floor area ratio or lot coverage;
3. Availability and adequacy of public facilities and infrastructure (when applicable);
4. Character of the development.

(2) For Type III and IV applications the department shall prepare a staff report on the proposed development or action. Staff shall file one consolidated report with the hearing examiner at least 17-10 calendar days prior to a the scheduled open record hearing. The staff report shall:

- address the proposed development or action, summarizing the comments and recommendations of county departments, affected agencies, special districts and public comments received within the 15-day or 30-day comment period as established in WCC 2.33.060(F). The report shall also provide an evaluation of the project proposal for consistency as indicated in this section. The staff report shall include findings, conclusions, and proposed recommendations for response to the proposal.

(a) Summarize the comments and recommendations of county departments, affected agencies, special districts and public comments received within the 14-day or 30-day comment period as established in WCC 22.05.070(6).

(b) Provide an evaluation of the project proposal for consistency as indicated in this section.

(c) Include recommended findings, conclusions, and actions regarding the proposal.

[The proposal to change the staff report time frame to ten days is consistent with public notice publication requirements of 22.05.090(1)(a).]

D. The conclusions of a consistency determination made under this section shall be documented in the project permit decision.
(3) For all project permit applications, if more information is required to determine consistency at any time in review of the application, the department may issue a notice of additional requirements. The notice of additional requirements shall allow the applicant 180 calendar days from the date of issuance to submit all required information. The director or designee may extend this period for no more than cumulative 24 months upon written request by the applicant or authorized agent, provided the request is submitted before the end of the first 180-day period. A notice of additional requirements is not a final administrative determination.

[Proposed subsection (3) codifies a 180-day response period for N:O:A:R, consistent with current PDS practice.]

20.92.400.22.05.110 Final decisions.
(1) The director or designee’s administrator’s final decision on all Type I or II applications shall be in the form of a written determination or permit. The determination or permit may be granted subject to conditions, modifications, or restrictions that are necessary to comply with all applicable codes.

20.92.410 Final decision—Conditions—Applications and appeals.
(2) The hearing examiner’s final decision on all Type III applications per WCC 22.05.020 or appeals per 22.05.160(1) shall either grant or deny the application or appeal.

(a) The hearing examiner may grant Type III the applications or appeal—subject to conditions, modifications or restrictions that the hearing examiner finds are necessary to make the application compatible with its environment, carry out the objectives and goals of the Comprehensive Plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County, conditions, modifications or restrictions that the hearing examiner finds necessary to make the application compatible with its environment, and carry out the objectives and goals of the Comprehensive Plan, the zoning code, the subdivision code, the critical areas ordinance, or other official policies and objectives of Whatcom County.

(b) Performance bonds or other security, acceptable to the prosecuting attorney, may be required to ensure compliance with the conditions, modifications and restrictions.

20.92.420 Final decision—Findings and conclusions.
(c) The hearing examiner shall render a final decision within 14 calendar days following the conclusion of all testimony and hearings. Each final decision of the hearing examiner shall be in writing and shall include findings and conclusions; based on the record, to support the decision.

20.92.430 Time limitation on decision.
Except for major project permits, each final decision and recommended decision of the hearing examiner shall be rendered within 10 calendar days following the conclusion of all testimony and hearings. For major project permits, the hearing examiner shall render recommendations within 45 calendar days following the conclusion of the open-record hearing.
20.92.440 Review limited.
   (d) No final decision of the hearing examiner shall be subject to administrative or quasi-judicial review, except as provided herein.

20.92.600 Appeal to county council.
20.92.610 Applicant appeal.
   (e) The applicant, any party of record or any county department may appeal any final decision of the hearing examiner to the county council superior court, except as otherwise specified in WCC 22.05.020.
   The appellant shall file a written notice of appeal at the county council office within 10 business days of the final decision of the hearing examiner. Any parties of record from the hearing examiner’s proceedings who wish to continue to be considered parties of record must register with the county council in writing no later than 10 days after the date of the notification of appeal letter which is sent from the hearing examiner’s office. The notification of appeal letter will be sent from the hearing examiner’s office within three working days of receiving written notification from the county council office that an appeal has been filed.

[22.05.020 proposes changing the appeal body from County Council to Superior Court to separate legislative and quasi-judicial functions. Accordingly, the current 20.92.620 through .840, which describes the County Council appeal process, is proposed to be omitted.]

20.92.30022.05.120 Recommended decisions to county council.

20.92.310 Recommended conditions.

20.92.30022.05.120 Recommended decisions to county council. 20.92.310 Recommended conditions.
   (1) For Type IV applications per WCC 22.05.020 the hearing examiner’s recommendations to the county council may be to grant, grant with conditions or deny an application. The hearing examiner’s recommendation may include conditions, modifications or restrictions as may be necessary to make the application compatible with its environment, carry out the objectives and goals of the Comprehensive Plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County. 20.92.320 Recommended decision—Findings and conclusions.

   (2) Each recommended decision of the hearing examiner for an application identified as a Type IV application per WCC 20.05.020 major developments, site-specific rezones and subdivisions, shall be in writing to the clerk of the county council and shall include findings and conclusions based upon the record to support the decision. Such findings and conclusions shall also set forth the manner in which the decision carries out and conforms to the county’s Comprehensive Plan and complies with the applicable statutes, ordinances or regulations. (1) The hearing examiner’s recommendations may be to grant or deny an application identified as Type IV applications per WCC 20.05.020 any subdivision, major development or site-specific rezone application, or the hearing examiner may recommend that the county council approve the application with such conditions, modifications or
restrictions as the hearing examiner finds necessary to make the application compatible with its environment and carry out the objectives and goals of the Comprehensive Plan, the zoning code, the subdivision code, or any other official policies and objectives of Whatcom County.

20.92.320 Recommended decision—Findings and conclusions.

(2) Each recommended decision of the hearing examiner, for an application identified as a Type IV application per WCC 20.05.020, major developments, site-specific rezones and subdivisions, shall be in writing and shall include findings and conclusions, based upon the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision carries out and conforms to the county's Comprehensive Plan and complies with the applicable statutes, ordinances or regulations.

20.92.330 Filing recommended decision.

(3) Each recommended decision of the hearing examiner, for development agreements, major project permits, developments, site-specific rezones and subdivisions, and planned unit developments, shall be filed with the clerk of the county council. For major project permits, a list of the parties of record as determined by the hearing examiner should shall be filed with the recommended decision.

(3) The deliberation of the county council on quasi-judicial actions shall be in accordance with WCC 22.05.090(4) and Chapter 42.36 RCW.

20.92.500 Process for subdivision application and major project permits.

20.92.510 Subdivisions:
The county council shall process each recommended decision for subdivisions consistent with the procedure set forth in WCC Title 21.

20.88.215 A written notice of the scheduled public hearing shall be mailed not less than 10 working days prior to the hearing as follows:

(1) For sites within urban growth areas: Notice shall be mailed to each property owner within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor;

(2) For sites outside urban growth areas: Notice shall be mailed to each property owner within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor.

Also notice of the hearing shall be published in a newspaper of general circulation in the area of the proposed project at least 10 working days prior to the public hearing. Notice shall consist of time and date of hearing, and brief description of the property and the proposed project. Further, signs meeting the approval of the zoning administrator shall be erected on each frontage of the project site by the applicant not less than 10 working days prior to the hearing.

(4) For major project permits, planned unit developments and major project permits the following shall apply:

20.88.220(a) The recommendation of the hearing examiner regarding planned unit developments and major project permits major project permits shall be based upon the criteria set forth in WCC 20.85.33588.130 and 20.858.335130, respectively (1) through (7).
20.92.520(b) - The hearing examiner shall file the recommendation with the clerk of the county council within 21 calendar days following the conclusion of the open record hearing. shall, upon receipt of the recommended decision on a major project permit, process that recommendation in the manner set forth in the major project permit chapter of this title (Chapter 20.88 WCC).

20.88.225(c) Within 45{28} calendar days after the hearing examiner’s recommendation has been filed, the county council shall do one of the following:
(1) Refer the project to the planning commission for a recommendation.
(2) Hold a public meeting, not an open record public hearing, to deliberate on the project application and, within 20-21 calendar days of the meeting, issue a final written decision. The county council may exceed the time limits in this subsection if it makes written findings that a specified amount of additional time is needed to process a specific application or project type, per RCW 36.70B.080(1).

[The optional review by Planning Commission is proposed for omission because that step makes it difficult to complete the project review within 120 days required in proposed 22.05.130(1)]

20.88.230 If the project is referred to the planning commission, that body shall within 45 calendar days hold all necessary public meetings and file with the county council a written recommendation for approval or denial and may include conditions of approval, together with the findings upon which the recommendation is based. The applicant may waive the 45 calendar day time limitation.

20.88.235 A written notice of the public meeting before the planning commission or the county council shall be mailed to all parties of record, on file with the clerk of the county council not less than five calendar days prior to the hearing.

20.88.240 The deliberation and recommendation of the planning commission shall be based solely upon consideration of the record, the hearing examiner’s recommendation and the criteria set forth in WCC 20.88.130(1) through (7).

20.88.245 Upon receipt of the planning commission recommendation, the county council shall within 45 calendar days hold a public meeting to deliberate on the application and within 20 calendar days of the meeting issue a final written decision on the application considering the recommended decisions of the hearing examiner and planning commission.

20.88.250 Reserved.

20.88.25(5) 5(d) The county council’s final written decision may include conditions when the project is approved and shall state the findings of fact upon which the decision is based.

20.88.260(e) Deliberation at any public meeting before the county council or planning commission may be limited in scope to particular issues or problems at the discretion of either body.

20.88.265(6) Any deliberation and/or decision of the county council shall be based solely upon consideration of the record established by the hearing examiner, the recommendations of the hearing examiner and the planning commission (when applicable), and the criteria set forth in county code WCC 20.88.130(1) through (7).

20.92.530 Site-specific rezones.
The county council shall, upon receipt of the recommended decision on a site-specific rezone, process that recommendation in the manner set forth in Chapter 20.90 WCC, Amendments.

2.33.090-22.05.130 Notice of final decision and permit review limitation and timeframes and notice of final decision.

A. Unless otherwise exempted in WCC 2.33.020 or subsection (C) of this section, the county shall issue a notice of final decision on a project permit application as follows:
   1. Within 90 days of a determination of completeness if the project is exempt from SEPA review unless a shorter review period is provided in other provisions of the Whatcom County Code;
   2. Within 90 days of a determination of completeness if the project is a subdivision under WCC Title 21 unless a shorter review period is provided in other provisions of the Whatcom County Code;
   3. Within 120 days of a determination of completeness if the project is other than a subdivision and is subject to SEPA review unless a shorter review period is provided in other provisions of the Whatcom County Code;

B. In determining the number of days that have elapsed after an application is determined to be complete, the following time periods shall be excluded:
   (1) The county shall issue a notice of final decision for all permit types, on, including procedures for administrative appeal and notice that affected property owners may request a change in valuation for property tax purposes, to the applicant, the Whatcom County assessor, and any person who requested notice or submitted substantive comments on the application within 120 calendar days of the date the department determined the application complete, except as provided below:
      (a) The following time periods shall be excluded from the calculation of the number of days elapsed:
         1.-(i) Any period during which the applicant has been required by the county to correct plans, perform required studies, or provide additional, required information through a notice of additional requirements, per WCC 22.05.100(3). -a. The period shall be calculated from the date the county notifies the applicant of the need for additional information, issues a notice of additional requirements until the date the county receives all of the requested additional information. The county shall have 14 days after the date the information has been provided to the county to determine adequacy of the information;
         b. If the information submitted by the applicant under this subsection is insufficient, the county shall notify the applicant of the deficiencies and the provisions of this section shall apply as if a new request for information has been made;
         2.-(ii) Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW and WCC Title 16;
         3.-(iii) The period specified for administrative appeals of project permits as provided in Chapter 20.92.11 WCC;

   3 RCW 36.70B.130
4.(iv) The period specified for administrative appeals of development standards as provided in WCC 12.08.035(1);

5.(v) Any period in which the applicant has not met public notification requirements;

6.(vi) Any period of time mutually agreed upon in writing by the applicant and the county.

C.(b) The time limits established by subsections (A) and (B) of this section shall not apply to a project permit application that:

1.(i) Requires an amendment to the Whatcom County comprehensive plan or a development regulation in order to obtain approval.

2.(ii) Requires approval of a new fully contained community as provided in RCW 36.70A.350, a master planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.70A.200.

3.(iii) Is substantially revised by the applicant, including all redesigns of proposed land divisions pursuant to WCC 21.01.150, in which case a new time period shall start from the date at which the revised project application is determined to be complete.

D.(c) The county may extend notice of final decision on the project if the county can document legitimate reasons for such a delay. In such a case the county shall provide written notice to the applicant at least 20-14 calendar days prior to the deadline for the original notice of final decision. The notice shall include a statement of reasons why the time limits have not been met and a date of issuance of a notice of final decision.

E. The county shall not be liable for damages under this chapter due to the county’s failure to make a final decision within the time limits established in WCC 2.33.080.

F. Notice shall be made by mail to the applicant, the Whatcom County assessor, and any party of record.

G.(2) If an applicant believes a project permit application has not been unless otherwise acted upon by the county in a timely manner or otherwise consistent with this chapter, permit applications subject to this chapter shall be approved as submitted within the timeliness established in WCC 2.33.090. the applicant or authorized representative may request a meeting with the director to resolve the issue. Within 14 calendar days of the meeting, the director shall:

(a) Approve the permit if it is within the director’s authority to do so, provided the approval would not violate state or county regulations, or

(b) Deny the permit if it is within the director’s authority to do so, or
(c) Respond in writing with the department’s position, or a mutually acceptable resolution of the issue, which may include a partial refund of application fees at the director’s discretion.

[This proposed change is intended to maintain accountability on the part of the county and provide an avenue for resolving disputes, while removing a provision that could potentially approve an application that violates state or county regulations.]

21.02.030 Appeals. (1) (3) Any final order, requirement, permit decision or determination issued by Whatcom County shall include a notice to the applicant of his or her appeal rights per WCC 22.05.160.

22.05.140 Expiration of project permits.
(1) Project permit approval status shall expire two years from the date of approval except where a different duration of approval is authorized by Whatcom County Code, or is established by a court decision or state law, or executed by a development agreement. The decision maker may extend this period up to one year from the date of original expiration upon written request by the applicant.

(2) Any complete project permit application for which no information has been submitted in response to the department’s notice of additional requirements per WCC 22.05.100(3) shall expire at the end of the time limit established in 22.05.100(3).

[This provision for applications to expire after no response within the NOAR time frames allows for consistent predictable outcomes, and establishes clear expectations.]

(3) For projects that have received a SEPA determination of significance per WCC 16.08, all underlying project permit applications shall expire when one of the following occurs:

(a) The applicant has not in good faith maintained a contract with a person or firm to complete the Environmental Impact Statement (EIS) as specified in the scoping document. The applicant is responsible for informing the county of the status of such contract. If there is no notice given to the County, all underlying project permit applications shall expire upon the end date of the contract; or

(b) The mutually agreed timeframe to complete the Draft EIS or Final EIS has lapsed.

(4) Project permits which received preliminary approval or a final decision prior to February 22, 2009 that did not include an expiration timeframe in the conditions of approval shall expire on [two years after the effective date of this ordinance].
20.92.250 Permit revocation procedure.
(1) Upon notification by the zoning administrator or his deputy that a substantial violation of the terms and conditions of any previously granted zoning conditional use, shoreline substantial development or shoreline conditional use permit exists, the hearing examiner shall issue a summons as per WCC 20.92.225 2.11.220 to the permit holder requiring said permit holder to appear and show cause why revocation of the permit should not be ordered. Failure of the permit holder to respond may be deemed good cause for revocation.

20.92.255 Permit revocation hearing.
(2) Upon issuance of a summons as set forth in WCC 20.92.250 subsection (1) of this section, the hearing examiner shall schedule an open record hearing to review the alleged violations. The summons shall include notice of the hearing and shall be sent to the permit holder and the land use division director of planning and development services no less than 12 calendar days prior to the date of the hearing. At the hearing the hearing examiner shall receive evidence of the alleged violations and the responses of the permit holder, as per the business rules of the hearing examiner’s office. Testimony shall be limited to that of the division and the permit holder except where additional evidence would be of substantial value in determining if revocation should be ordered. The land use division’s evidence may include the testimony of witnesses.

20.92.260 Permit revocation or grace period.
(3) Upon a showing of violation by a preponderance of the evidence as alleged, the hearing examiner may revoke the permit or allow the permit holder a reasonable period of time to cure the violation. If the violation is not cured within the time set by the hearing examiner, the permit shall be revoked. Where a time to cure the violation has been set out, no further hearing shall be necessary prior to the revocation. The permit holder shall have the burden of proving that the violation has been cured within the time limit previously set. Such evidence as is necessary to demonstrate that the violation has been cured may be submitted to the hearing examiner by either the permit holder or the land use division director of planning and development services. Any revocation shall be accompanied by written findings of fact and conclusions of law. The permit holder shall be notified of any revocation within 10 working 14 calendar days of the revocation.

20.92.610 Applicant Appeal. 22.05.160 Appeals.
(1) Any party of record may appeal any order, final permit decision or final administrative determination made by the director or designee in the administration or enforcement of any chapter to the hearing examiner, who has the authority to hear and decide such appeals per WCC 2.11.210.

(a) An appeal shall be filed with the department within 14 calendar days of the issuance of a final permit decision and shall be accompanied by a fee as specified in the Unified Fee Schedule. The written appeal shall include:

(i) The action or decision being appealed and the date it was issued;
(ii) Facts demonstrating that the person is adversely affected by the decision;

(iii) A statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;

(iv) The specific relief requested; and

(v) Any other information reasonably necessary to make a decision on the appeal.

[Proposed items 1(a)(i)-(v) are copied from Bellingham Municipal Code 21.10.250]

(b) The hearing examiner shall schedule a public hearing on the appeal to be held within 60 calendar days following the department’s receipt of the application for appeal unless otherwise agreed upon by the county and the appellant.

(2) The applicant, any party of record, or any county department may appeal any final decision of the hearing examiner to the county council Superior Court or other body as specified by WCC 22.05.020. The appellant shall file a written notice of appeal at the county council office within 10 business days of the final decision of the hearing examiner. Any parties of record from the hearing examiner’s proceedings who wish to continue to be considered parties of record must register with the county council in writing no later than 10 days after the date of the notification of appeal letter which is sent from the hearing examiner’s office. The notification of appeal letter will be sent from the hearing examiner’s office within three working days of receiving written notification from the county council office that an appeal has been filed.

22.05.180 Interpretation, conflict and severability.

(1) Minimal Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements.

((21) Interpret to Protect Public Welfare. In the event of any discrepancies between the requirements established herein and those contained in any other applicable regulation, code or program, the regulations which are more protective of the public health, safety, environment and welfare shall apply.

(32) Severability. The provisions of this chapter are severable. If a section, sentence, clause, or phrase of this title is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the remaining portions of this chapter.
Chapter 22.10

LEGISLATIVE ACTION PROCEDURES

This new chapter is adapted from the current Chapter 2.160 Comprehensive Plan Amendments, and Chapter 20.90 Amendments, along with new text that combines and streamlines existing process descriptions. Current text is shown in normal black font, with proposed changes shown in red. The current chapter/section numbers are shown as deleted with the proposed numbers replacing them.

Sections:
- 22.10.010 Purpose and applicability.
- 22.10.020 The docket.
- 22.10.030 Processing of docketed amendments.
- 22.10.040 Concurrent review of comprehensive plan amendments.
- 22.10.050 Notice of public hearing.
- 22.10.060 Approval criteria.

22.10.010 Purpose and applicability.
This chapter establishes the procedures for legislative actions amending the Whatcom County Comprehensive Plan and the development regulations that implement that plan. Amendments to the comprehensive plan includes changes to the plan's text and maps, and amendments to the development regulations include changes to the official zoning map and the text in WCC Titles 16, 20, 21, and 23. For purposes of this chapter, comprehensive plan amendments include amendments to subarea plans.

22.10.020 The docket.
(1) The department of planning and development services ("department") shall maintain a proposed docket of comprehensive plan and development regulation amendment applications and shall present it to the county council for review once a year on or about March 1. The county council may, by resolution, approve a docket listing all applications that may be processed per the provisions of this chapter.

(2) The department, the executive, the planning commission, or the county council, by majority vote, may place a proposed amendment on the docket at any time.

(3) A party other than the county council, executive, the planning commission or the department may suggest an amendment to the comprehensive plan or development regulations by making application on forms provided by the department and submitting any required docketing fee.

(a) Applications for suggested amendments must be submitted by December 31 in order to be included on the proposed docket presented to the county council at its next annual docket review. The department shall review the application for
completeness and may request additional information to ensure the application is complete before scheduling it for the annual docket review.

(b) If the county council docket a suggested amendment, all required amendment application fees are due within 30 calendar days after it is docketed. If all fees are not paid within 30 calendar days after being docketed, the department shall close the application and remove it from the docket. When docketing an application, the county council may waive the application fees if it finds the proposed amendment would clearly benefit the community as a whole.

[The intent of proposed section 22.10.020(1)-(3) is to clearly differentiate between the proposed docket presented by the department, and the final docket approved by resolution of the County Council. RCW 36.70.470’s allowance for suggested amendments is accommodated, with the requirement that the suggestion be accompanied by a completed application and a docketing fee (not the full application fee, which is charged if it is docketed, unless waived by the County Council; the “clearly benefit the community” finding is currently required in WCC 2.160.110.).]

20.90.041(2)(4) The county council, by majority vote, may remove a proposed amendment from the approved docket by motion, unless:
(a) the proposed amendment was: (a) initiated proposed by a citizen-party other than the county council or the department per WCC 22.10.020(3), 20.90.030(4) (b) the amendment is consistent with state and federal regulations; and
(c) the applicant has provided all information required by the planning and development services department. The department shall notify the applicant not less than 30 calendar days prior to consideration of removal from the docket. If the county council has not acted upon a docketed proposed amendment during the year for which it has been docketed, the county council may place the amendment on the following year’s docket.

20.90.050.22.10.030 Processing of initiated-docketed amendments.
(1) The department shall review docketed comprehensive plan and development regulation amendment applications as provided below: Initiated amendments are reviewed by the department of planning and development services as listed below:

1: (a) For suggested citizen-initiated amendments applications filed per WCC 22.10.020(3), the department of planning and development services will evaluate each the applications for completeness and may request additional information of the applicant prior to requesting the appropriate hearing body to schedule a public hearing. Where a development regulation amendment requires a comprehensive plan amendment, the two amendments shall be processed at the same time.

2: (b) The department of planning and development services shall conduct environmental review under SEPA and prepare a staff report including recommendations and/or options for each initiated docketed amendment to this title and/or the official zoning map. Both the report and the result of the environmental review shall be forwarded to the appropriate hearing
bodyplanning commission, and to the applicable city staff and planning commission if the proposed amendment applies to land within a city’s urban growth area.

(a)(c) The staff report shall evaluate the initiated proposed amendment(s) in relationship to the goals, objectives and policies of the Whatcom County Comprehensive Plan approval criteria of WCC 22.10.060, and consider any environmental implications as impacts or mitigation measures identified by the Whatcom County SEPA official, and evaluate the proposal’s compliance with any other special provision as provided by WCC 20.90.060. If the proposed amendment includes land within a city’s urban growth area, the staff report shall also address any comments from the city regarding consistency with the applicable city comprehensive plan and the ability of the city to provide needed utility services.

(2) Docketed comprehensive plan and development regulation amendment applications shall receive a public hearing by the planning commission subject to the notice requirements of 22.10.050. Following the public hearing, the planning commission shall vote to adopt findings of fact and recommended actions, which the department shall transmit to the county council. In addition to the public hearing, the planning commission may hold public work sessions to discuss a proposed amendment.

(3) The county council may hold a public hearing on the docketed amendment in addition to the planning commission’s public hearing. If the county council decides the public interest is better served by considering a final action that differs from the planning commission recommendation, the county council shall hold a public hearing. The county council, by majority vote, may adopt the amendment by ordinance, reject the amendment, or remand the proposed amendment to the planning commission for further review.

(4) Actions that are quasi-judicial as defined in 42.36.010 RCW (including but not limited to a zoning map amendment for a single lot) are subject to the appearance of fairness doctrine Chapter 42.36 RCW. For a proposed amendment that is a quasi-judicial action, the planning commission and county council shall process the application in accordance with Chapter 42.36 RCW in addition to the requirements of this section.

22.10.040 Concurrent review of comprehensive plan amendments
(1)While public hearings and other public discussion of proposed comprehensive plan amendments may take place at any time of the year, the county council’s final review and adoption of those amendments shall take place concurrently, no more frequently than once per calendar year, in accordance with RCW 36.70A.130(2)(a). Final adoption should occur on or about February 1.

(2)The following comprehensive plan amendments are excluded from the requirement of annual concurrent review and may be adopted at any time:

(a)The initial adoption of a subarea plan.
(b) Adoption or amendment of the shoreline master program under procedures set forth in Chapter 90.58 RCW.

(c) The amendment of the capital facilities element concurrent with adoption or amendment of the county budget.

(d) Amendments needed to resolve an appeal of the comprehensive plan filed with the growth management hearings board or the court, or

(e) Amendments necessary in cases where the county council finds an emergency exists.

**22.10.050 Notice of public hearing.**

(1) The county shall publish notice of the public hearing at least once in the official county newspaper and on the Whatcom County web site no fewer than 10 calendar days prior to the hearing. The notice shall include the date, time, place, and subject of the hearing.

[As a courtesy the department also provides notice to other publications and individuals who have submitted a written request to receive such notice through the County’s web site.]

(2) For public hearings involving a quasi-judicial zoning map amendment application, per WCC 22.10.030D, the county shall provide the following notice in addition to the requirements of subsection A of this section:

**20.90.045** (1) Notice shall be published once in the official county newspaper at least 10 days prior to the hearing. The county shall prepare the notice and the applicant shall pay for the notice.

(2)(a) The county shall mail notice shall be mailed to property owners as follows:

(a)(i) For zoning map amendments within existing urban growth areas: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit a stamped envelopemailing labels with a typed address for each of the above-referenced property owners.

(b)(ii) For zoning map amendments outside existing urban growth areas: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit a stamped envelopemailing labels with a typed address for each of the above-referenced property owners.

(e)(iii) For zoning map amendments that involve rezoning property to an Airport Operations District: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within
1,500 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit a stamped envelopemailing labels with a typed address for each of the above-referenced property owners.

(d)(vi) For zoning map amendments that involve rezoning property to a Mineral Resource Land designation: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 2,000 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit a stamped envelopemailing labels with a typed address for each of the above referenced property owners.

(3)(b) The county shall prepare and the applicant shall post signs giving notice of the hearing in conspicuous locations on the property at least 10 calendar days prior to the hearing.

(4)(c) The county shall send notice to the appropriate city, when the proposed rezone-amendment is within or would expand the urban growth area, and to agencies, school districts, and tribes that will potentially be affected by the proposed rezone-amendment at least 10 calendar days prior to the hearing.

(5)(d) For sites within 4,500 feet of the runway of Lynden Airport or Floathaven Sea Plane Base: At least 10 calendar days prior to the scheduled hearing date, application notice shall be sent to the city manager (if applicable), airport board or commission (if applicable), and an official representative of the airport.

(6)(e) For sites within 10,000 feet of the runway of Bellingham International Airport: At least 10 calendar days prior to the scheduled hearing date, application notice shall be sent to the Port of Bellingham.

(7)(f) All notices shall specify the date, time, location, and purpose of the hearing and provide a description and the location of the proposed rezone. The public shall be invited to submit written comments and attend the hearing to provide oral comments.

2.160.08022.10.060 Approval criteria.
A:(1) In order to approve an-initiated a comprehensive plan amendment, the planning commission and the county council shall find all of the following:

1.(a) The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.

2.(b) Further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the amendment.
3.(c) The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

a.(i) The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

b.(ii) The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

c.(iii) Anticipated impact upon designated agricultural, forest and mineral resource lands.

4.(d) The amendment does not include or facilitate spot zoning.

5. Urban growth area amendments that propose the expansion of an urban growth area boundary shall be required to acquire development rights from a designated TDR sending area:

a. One development right shall be transferred for every five acres included into an UGA. The county council may modify this requirement if a development agreement has been entered into that specifies the elements of development in the expanded UGA. The development agreement should include, but not be limited to, affordable housing, density, allowed uses, bulk and setback standards, open space, parks, landscaping, buffers, critical areas, transportation and circulation, streetscapes, design standards and mitigation measures.

b. Exceptions to required TDRs include urban growth area expansion initiated by a government agency, correction of map errors, properties that are urban in character, or expansions where the public interest is served.

c. Urban growth area expansion initiated by the county, cities or other agencies shall be subject to review by county and city planning staff, and the appropriate administrative bodies, to determine whether the subject site is appropriate for designation as a TDR receiving area.

(2) In order to approve an amendment to the development regulations, the planning commission and county council shall find that the amendment is consistent with the comprehensive plan.
Chapter 22.15
CODE COMPLIANCE PROCEDURES
(Reserved)

[This is a place-holder for a future consolidated chapter on enforcement procedures. It would largely be based on current Chapter 20.94 Enforcement and Penalties, with enforcement procedures from other titles added, because PDS staff enforces more than just Title 20 Zoning.]

Chapter 22.20
LAND USE AND DEVELOPMENT CODE INTERPRETATION PROCEDURES

[Based on City of Bellingham’s code interpretation process, BMC 21.10.270]

Sections:
22.20.010 Purpose and applicability.
22.20.020 Request for interpretation.
22.20.030 Procedure.
22.20.040 Factors for Consideration.
22.20.050 Issuance of Interpretation.
22.20.060 Appeals.

22.20.010 Purpose and applicability
(1) The purpose of this chapter is to establish the procedure for interpreting provisions of Whatcom County’s land use and development codes to clarify conflicting or ambiguous wording.

(2) The director of planning and development services (director) is authorized to make written interpretations of the provisions of the following titles of WCC:

(a) Title 16 Environment,
(b) Title 20 Zoning,
(c) Title 21 Land Division Regulations,
(d) Title 22 Land Use and Development Procedures, and
(e) Title 23 Shoreline Management.
(3) Issuance of an interpretation of the provisions of the code shall not amend the code.

22.20.020 Request for interpretation.
Anyone may request an interpretation consistent with the provisions of this chapter. Any person requesting an interpretation of the code shall submit a written request specifying each provision of the code for which an interpretation is requested, why an interpretation of each provision is necessary, and any reasons or material in support of a proposed interpretation. The county council may establish an application fee for interpretation requests.

22.20.030 Procedure.
(1) The director shall determine how to process the code interpretation request. The request may be:

   (a) Processed as a Type I decision per WCC 22.05.020; or

   (b) Consolidated with the process associated with the review of the application.

(2) The director shall consult with the Department of Ecology regarding any interpretation of the shoreline management program.

22.20.040 Factors for consideration.
In making an interpretation of the provisions of the code, the director shall consider the following:

(1) The applicable provisions of the code including their purpose and context;

(2) The impact of the interpretation on other provisions of the code;

(3) The implications of the interpretation for development within the county as a whole; and

(4) The applicable provisions of the comprehensive plan and other relevant codes and policies.

22.20.050 Issuance of interpretation.
The director shall issue a written interpretation within 30 calendar days of the department’s receipt of the interpretation request. Issuance of the interpretation shall include notification of the person making the request and publication of the interpretation on the county’s web site. The director may docket an amendment to clarify the affected section of county code per WCC 22.10.020(2)(b).

22.20.060 Appeals.
Any party of record may file an appeal of a formal code interpretation. The appeal shall follow all rules and procedures for appeals to the hearing examiner as set forth in WCC 22.05.160.
Chapter 22.25

LAND USE AND DEVELOPMENT FEES

[Proposed to be moved from WCC 20.04.090 - .092 because it applies to all land use and development fees, not just those in Title 20 zoning.]

Sections:
22.25.010 Purpose and applicability
22.25.020 Application fees and other fees.
22.25.030 Reduced application fees.
22.25.040 Refund of application fees.

22.25.010 Purpose and applicability
(1) The purpose of this chapter is to establish the authority for collecting fees for various land use and development review services, as well as provisions for reductions and refunds of those fees.

(2) The provisions of this chapter shall apply to fees charged for procedures contained in the following titles of WCC:

(a) Title 15 Building and Construction,
(b) Title 16 Environment,
(c) Title 17 Flood Damage Prevention,
(d) Title 20 Zoning,
(e) Title 21 Land Division Regulations,
(f) Title 22 Land Use and Development Procedures, and
(g) Title 23 Shoreline Management.

20.04.0922.25.020 Application fees and other fees.
Fees for conditional use permits, variances, planned unit developments, project permit applications, legislative amendments, initiated docketed amendments and land use fees for other approvals and reviews as set forth in this title shall be as provided in the County’s Unified Fee Schedule.

20.04.09122.25.030 Reduced application fees.
When any given project requires more than one of the following permits or applications, the total amount of fees shall be reduced by 25 percent of the required aggregate permit and application fees; provided any fees required for processing of an EIS shall not be included as part of the total amount of fees to be reduced by 25 percent.
(1) Subdivision plat application;
(2) Rezone application;
(3) Shoreline substantial development permit, variance or conditional use;
(4) Major development permit;
(5) Conditional use permit;
(6) Variance;
(7) Planned unit development.

20.04.09222.25.040 Refund of application fees.
Refunds of application fees for project permits and for amendments to the Whatcom County Comprehensive Plan, development regulations and official maps shall be computed based on the following, unless otherwise indicated in Whatcom County Code. All refund requests shall be submitted in writing to the department of planning and development services. The date of application for a refund request shall be the date the written refund request is received by the department. For the purpose of computing elapsed calendar days, the day after the date of application or deadline date as appropriate shall be counted as day one.

(1) Fees for Project Permits.

(a) Applications withdrawn on or before the fourteenth calendar day after the date of application shall be eligible for a refund of 90 percent of all application fees including any SEPA fees.

(b) Applications withdrawn after the period set forth in subsection (1)(a) of this section but on or before the ninetieth calendar day after the date of application shall be eligible for a refund of 50 percent of all application fees except for any SEPA fees which shall not be eligible for a refund.

(c) Applications withdrawn after the ninetieth calendar day after the date of application shall not be eligible for a refund.

(d) Notwithstanding the above, no fees shall be refunded for any permit or approval that has been issued or granted by the county.

(e) The director may authorize a full refund of any project permit application fee paid in error.

(2) Fees for Amendments to the Whatcom County Comprehensive Plan, Development Regulations, and Official Maps.

(a) Applications for amendments that are withdrawn on or before the fourteenth calendar day after the deadline for submitting the fee shall be eligible for a refund of 90 percent of all application fees including SEPA fees. If there is no deadline for submitting the fee, the 90-percent refund shall be
given if the application is withdrawn on or before the fourteenth calendar day after the fee was submitted.

(b) Applications for amendments that are withdrawn after the period set forth in subsection (2)(a) of this section but on or before the ninetieth calendar day after the deadline for submitting the fee shall be eligible for a refund of 50 percent of all application fees except for SEPA fees which shall not be eligible for a refund. If there is no deadline for submitting the fee, the 50-percent refund shall be given if the application is withdrawn on or before the ninetieth calendar day after the fee was submitted.

(c) Applications for amendments that are withdrawn after the 90 calendar days shall not be eligible for a refund.

(3) Withdrawal of an application shall constitute full surrender of any express or implied rights inherent in an application which has been perfected and accepted by the planning and development services department or its designees.
EXHIBIT B

Whatcom County Code Title 2
Administration and Personnel

AMENDMENTS

Title 2
ADMINISTRATION AND PERSONNEL

Chapters:

. . . .

2.11 Repealed Hearing Examiner

. . . .

2.33 Permit Review Procedures Reserved

. . . .

2.160 Comprehensive Plan Amendments Reserved

. . . .

Chapter 2.02
COUNTY COUNCIL

. . . .

2.02.160 Hearing examiner.
The county council shall administer an annual contract for hearing examiner services. The duties of the hearing examiner are established in Chapter 20.922.11 WCC.

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Chapter 2.11

INFORMATION CENTER (Repealed by Ord. 93.042)

HEARING EXAMINER

[Note: Portions of the Hearing Examiner chapter in WCC Title 20 Zoning (Chapter 20.92) that establish the office and its authority are proposed to be moved to a new Chapter 2.11 because the HE holds hearings on applications on items other than zoning. Existing text from Chapter 20.92 is shown in normal font with new additions underlined and deletions struck through. Most of the remaining text from 20.92 related to procedures is moved to the new WCC 22.05 Project Permit Procedures.]

Sections:

20.922.11.010 Purpose.
20.922.11.100 Hearing examiner office.
20.922.11.110 Creation and purpose.
20.922.11.120 Pro tempore hearing examiner.
20.922.11.130 No interference with the hearing examiner.
20.922.11.140 Qualifications.
20.922.11.150 Appointment and removal.
20.922.11.200 Hearing examiner – Duties and powers.
20.922.11.205 Recommended decisions.
20.922.11.210 Final decisions.
20.92.2112.11.215 Administrative Appeals – Appeal Period.
20.92.2252.11.220 Rules and regulations.
20.92.2302.11.225 Department reports.
20.92.2352.11.230 Changes in legislation.
20.92.2402.11.235 Additional powers.
20.92.2452.11.240 Limited jurisdiction.

20.922.11.010 Purpose.
The purpose of this chapter is to establish the authority and responsibilities of the Hearing Examiner, provide a system of considering and applying regulatory devices which will best satisfy these three basic needs:

(1) The need to separate the application of regulatory controls to the land from planning;

(2) The need to better protect and promote the interest of the public and private elements of the community;

(3) The need to expand the principles of fairness and due process in open record hearings.

20.922.11.100 Hearing examiner office.

20.922.11.110 Creation and purpose.
The office of hearing examiner is hereby created. The hearing examiner shall act on behalf of the county council in considering the application of regulatory enactments to particular situations as provided herein.

20.922.11.120 Pro tempore hearing examiner.
The pro tempore hearing examiner shall assist the hearing examiner in the performance of the duties conferred upon them by this chapter, and shall have all of the duties and powers of the hearing examiner.

20.922.11.130 No interference with the hearing examiner.
No county official or any other person shall interfere with the hearing examiner or pro tempore hearing examiner in the performance of his or her designated duties.

20.922.11.140 Qualifications.
The hearing examiner and his pro tempore shall be appointed solely with regard to their qualifications for the duties of their office, and shall have such training or experience as will qualify them to conduct administration of quasi-judicial hearings on the application of regulatory enactments and to discharge other functions conferred upon them, and shall hold no other appointed or elected public office or position in the county government, except as provided in this chapter.

20.922.11.150 Appointment and removal.
The hearing examiner shall be appointed by a majority vote of the county council. The hearing examiner may be removed from office at any time by an affirmative vote of not less than two-thirds of the members of the county council.

20.922.11.200 Hearing examiner – Duties and powers.

20.922.11.205 Recommended decisions.
In accordance with the provisions of Chapter 22.05 WCC, the hearing examiner shall conduct an open record hearing and prepare a record thereof, and make recommendations to the county council for approval or disapproval of:

(1) Major project permits, including major project permit applications for mitigation banks proposed in accordance with the provisions of Chapter 16.16 WCC;

(2) Planned unit developments;

(3) Development Agreements, as authorized in RCW 36.70B-Site-specific rezones, including those processed as major project permits, PUDs and/or concomitant rezones;

(4) Such other permits as may be required from the county along with subsection (1) or (2) of this section for a given project. Applications where a major project permit is required shall be processed as set forth in Chapter 20.88 WCC. Where the hearing examiner would normally make a final decision to approve or deny an accompanying permit, the decision shall instead be in the form of a recommendation and accompany the hearing examiner’s recommendation on the major project permit or planned unit development to the county council for final approval;

(5) Proposed rates and charges or special assessments for lake management districts.

20.922.11.210 Final decisions.
In accordance with the provisions of Chapter 22.05 WCC, the hearing examiner shall conduct open record hearings and prepare a record thereof, and make a final decision upon the following matters:

(1) Appeals from any orders, requirements, permits, decisions or final determinations made by an administrative official or committee in the administration of this title, WCC Title 15, except for building and fire code requirements, WCC Title 16; Environment, WCC Title 17 Flood Damage Prevention, WCC Title 20 Zoning, WCC Title 21; Land Division Regulations, WCC 22 Project Permit Procedures, WCC Title 23 Shoreline or WCC Title 24; Health Regulations.

(2) Appeals from a decision of the administrator of the Shoreline Management Program.

(3) Applications for zoning ordinance conditional use permits.

(4) Applications for variances from the terms of the zoning ordinance.

(5) Applications for shoreline management substantial development permits not accompanied by a major project permit when an open record hearing is required.
(6) Applications for variances from the terms of the Whatcom County Shoreline Management Program.

(7) Applications for variances from the terms of Chapter 16.16 WCC, Critical Areas.

(8) Applications for reasonable use permits under the terms of Chapter 16.16 WCC when an open record hearing is required.

(9) Applications for Shoreline Management Program conditional use permits.

(10) Applications for flood damage prevention variances.

(11) Appeals from SEPA determinations of significance, determinations of nonsignificance, and mitigated determinations of nonsignificance.

(12) Preliminary subdivisions and subdivision variances.

(13) Preliminary binding site plan proposals.

(14) Application for variances from the provisions of WCC Title 22. [Reference to former Title 22 Guide Meridian plan to be removed]

(15) Revocation proceedings involving previously approved zoning conditional use permits, shoreline management substantial project permits and shoreline conditional use permits.

(16) Applications to continue operations of nonconforming adult businesses pursuant to WCC 20.83.015.

(17) Appeals of decisions relating to water service issues under Section 9.2 of the Coordinated Water System Plan.

(18) Appeals from any orders, requirements, permits, decisions or determinations made by an administrative official relating to essential public facilities.

**20.92.211 - 2.11.215** Administrative appeals – Appeal period.
Appeals to the hearing examiner on the subjects listed in WCC 22.05.020 20.92.210(1) and (2) must be filed within 14 calendar days of the date of administrative determination pursuant to WCC 22.20.160.

**20.92.2252.11.220** Rules and regulations.
The hearing examiner shall have the power to prescribe rules and regulations for the conduct of hearings before him or her, subject to approval by the county council; and also to issue summons for and compel the appearance of witnesses, to administer oath and preserve order. The opportunity of cross-examination of witnesses shall be afforded all interested parties or their counsel in accordance with the rules of the hearing examiner.
20.92.2302.11.225 Department reports. The hearing examiner may request reports from appropriate staff. See WCC 2.33.080-22.05.100 for details.

20.92.2352.11.230 Changes in legislation. The hearing examiner may recommend changes in legislation to the planning department or county council.

20.92.2402.11.235 Additional powers. The hearing examiner may also exercise administrative powers and such other quasi-judicial powers as may be granted by county ordinance.

20.92.2452.11.240 Limited jurisdiction. The hearing examiner shall, with the exception of site-specific rezones as provided for in WCC 20.90.063, have no jurisdiction over any project that requires a legislative action, such as but not limited to a standard map amendment, a Comprehensive Plan map change or a Shoreline Management Program amendment. All such projects shall be considered and processed concurrent with and in the same manner as applications for legislative action. The approval or denial of such projects shall be solely within the discretion of the county council.

20.92.850 Public hearing process for development agreements under the Growth Management Act. [This subsection on development agreements proposed to be shortened and moved to 2.11.205(3)]

(1) The Whatcom County hearing examiner is designated to conduct the open record public hearing for development agreements as defined in the Growth Management Act, Chapter 36.70B RCW.

(2) The Whatcom County hearing examiner shall conduct an open record public hearing and prepare a record thereof, and make recommendation to the county council for approval or disapproval of development agreements as defined in the Growth Management Act, Chapter 36.70B RCW.

Chapter 2.33

PERMIT REVIEW PROCEDURES

Reserved

[This chapter is proposed to be deleted in its entirety, with most of its content moved to the new Chapter 22.05 Project Permit Procedures.]
Sections:

2.33.010 Purpose and applicability:
2.33.020 Exemptions:
2.33.030 Preapplication review:
2.33.040 Application submittal information:
2.33.050 Permit receipt and determination of completeness:
2.33.060 Notice of application for a proposed land-use action:
2.33.070 Notice of an open record hearing:
2.33.080 Consistency review and staff report:
2.33.090 Permit review limitations and notice of final decision:
2.33.100 Consolidated permit review:
2.33.110 Open record hearings:
2.33.120 Annual report:

2.33.010 Purpose and applicability:
A. The purpose of this chapter is to consolidate the application, review, and approval processes for land development in Whatcom County in a manner that is easily understood and concise. It is further intended for this chapter to comply with state direction by integrating environmental and land-use review within a 120-day period.

B. This chapter describes how the county will process applications for development. The provisions of this chapter shall apply to all applications for a project permit that require an open-record hearing including, but not limited to:

1. Conditional uses;
2. Variances;
3. Subdivisions;
4. Shoreline permits when an open record hearing is required;
5. General binding site plans;
6. Lot consolidation relief;
7. Site-specific rezones;
8. Reasonable use.

2.33.020 Exemptions:
The following are exempt from the provisions of this chapter:

A. Project permits not subject to open record hearings; including, but not limited to, building permits and short plats, are exempt from the provisions of this chapter, provided, that:

   1. The county shall make a determination of completeness pursuant to WCC 2.33.050; and
2. A final decision is made by the county pursuant to WCC 2.33.090:
   a. Within 90 days of a determination of completeness if the project is exempt from SEPA review unless a shorter review period is provided in other provisions of the Whatcom County Code;
   b. Within 120 days of a determination of completeness if the project is subject to SEPA review unless a shorter review period is provided in other provisions of the Whatcom County Code;

B. Planned unit development permits; provided, that the county shall make a determination of completeness pursuant to WCC 2.33.050;

C. Major development permits; provided, that the county shall make a determination of completeness pursuant to WCC 2.33.050;

D. Concurrent rezones; provided, that the county shall make a determination of completeness pursuant to WCC 2.33.050;

E. Legislative actions including standard map amendments, comprehensive plans or other related plans and regulations;

2.33.030 Preapplication review;
A. The purpose of preapplication review is to acquaint county staff with a sufficient level of detail regarding the proposal. It is also the purpose of this review to acquaint the applicant with the applicable requirements of the Whatcom County Code.

B. A preapplication conference may be requested prior to the submittal of a project permit application subject to this chapter.

C. A fee shall be charged to the applicant for preapplication review. If the county makes a determination of completeness within one year of the preapplication meeting, the preapplication fee shall be applied to the application cost.

D. It is the responsibility of the applicant to initiate a preapplication conference through a written request or other means allowed by the technical administrator. The request shall, at a minimum, include the following written information:
   1. Property owner’s name, address, phone number, fax number;
   2. Applicant/project representative name, address, phone number, fax number;
   3. Project site parcel number;
   4. Project site address (if available);
   5. Written description of the project;
   6. One copy of the current deed to the property;
7. A site plan drawn at a scale of one inch equals 100 feet or larger that includes the following:

a. North arrow;

b. Scale;

c. All existing and proposed property lines with dimensions of parcel;

d. Location and size of existing and proposed structures labelled appropriately;

e. Location and size of existing and proposed easements and/or rights-of-way on or adjacent to the project site;

f. Significant physical features such as drainageways, wet areas, steep or unstable slopes;

g. Location of utilities including wells and septic systems when applicable.

E. The applicant may provide additional information to facilitate more detailed review. See WCC 2.33.040, Application submittal information, for additional submittal information.

F. A preapplication conference shall be held as soon as possible, but, in any event, no later than 20 days from the date of the applicant’s request.

G. The county shall provide the applicant with notice of site-specific submittal requirements as soon as possible, but, in any event, no later than 10 days from the date of the conference.

H. Preapplication review and preapplication agreements shall be valid for one year. If, within one year of a preapplication meeting, an associated application is not filed with the county or the application is substantially altered, the applicant shall be subject to a new preapplication review with a corresponding fee.

I. Preapplication review does not constitute acceptance of an application by the county nor does it vest an application.

2.33.040 Application submittal information.
A. Applications for a project permit shall be submitted using forms provided by the review authority.

B. If the applicant decides to mail a notice of application under WCC 2.33.060.D.2.a, the applicant shall include stamped and addressed envelopes (pursuant to WCC 2.33.060.D.2.a) with the application.

C. Submittal requirements for project permits are contained within the specific county code for each type of project proposal, in the corresponding chapter of the Whatcom County Development Standards, in applicable state law or WACs and in any site-specific conditions resulting from a preapplication conference.
The submittal information for each permit type constitutes the information necessary to determine whether an application is complete pursuant to WCC 2.33.050, Permit receipt and determination of completeness:

D. All information and agreements resulting from preapplication review must be submitted with the application unless otherwise agreed to by the county.

E. If the proposal submitted with the application has changed to such a degree that it requires substantial re-evaluation, any agreements made by the county may be voided. (Ord. 96-031 § 1).

2.33.050 Permit receipt and determination of completeness.

A. An application shall meet all submittal requirements before the proposal is submitted to the county for review. Upon submittal by the applicant, the county will accept the application and note the date of receipt. Receipt of an application does not constitute approval of the project proposal.

B. Within 14 days of accepting the application, the county shall make a determination of completeness or issue a determination that the application is incomplete.

C. A project permit application is complete when it meets the submittal information requirements of WCC 2.33.040, Application submittal information.

D. When an application is determined to be complete, the county shall proceed as follows:

1. Issue a determination of completeness either via postal service or directly provided to the applicant within 14 days of accepting a project permit application.

2. To the extent known, identify other agencies that may have jurisdiction over the project permit application. A list of agencies shall be included in the determination of completeness.

3. A determination of completeness shall not preclude the county from requiring additional information or studies at any time prior to permit approval.

E. If the application is determined to be incomplete, then the following procedure shall take place:

1. The county will notify the applicant that the application is incomplete and indicate what is necessary to make the application complete.

2. The applicant shall have 90 days from the date that the notification was issued to submit the necessary information to the county. This period shall be extended at the applicant's request in 90-day increments.

3. Upon receipt of the requested additional information, the county shall have 14 days to make a determination and notify the applicant.
4. If the applicant does not submit the necessary information to the county in writing within the 90-day period, the county shall make findings and issue a decision that the application is rejected.

F. If the county rejects an application, all vesting rights are lost.

G. If the county rejects an application because the applicant has failed to submit the required information within the necessary time period the county will return the application materials and the application will be closed.

H. A project permit application shall be deemed complete under this section if the county does not provide a written determination to the applicant that the application is incomplete within 14 days from the date of submittal as required in subsection E of this section.

2.33.060 Notice of application for a proposed land-use action:
A. A notice of application shall be issued for project permit applications within 14 days after a determination of completeness and at least 15 days prior to the open record hearing.

B. If the county has made a determination of significance concurrently with notice of application, the determination of significance and scoping notice shall be combined with the notice of application.

C. Notice shall include:

1. The date of application, the date of notice of completion for the application, and the date of the notice of application;

2. The date, time, place and type of the hearing, if applicable, and scheduled at the date of notice of the application;

3. A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the county;

4. The identification of other permits not included in the application to the extent known by the county;

5. The identification of environmental reviews conducted, including notice of existing environmental documents that evaluate the proposed project (including but not limited to reports, delineations, assessments and/or mitigation plans associated with critical area reviews) and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

6. Any other information determined appropriate by the county;

7. A statement indicating those development regulations that will be used for project mitigation or a determination of consistency if they have been identified at the time of notice;
8. A statement of the limits of the public comment period, the right of any person to comment on the application within a 15-day time period (30 days for substantial development permits and major project permits for mitigation banks), receive notice of and participate in any hearings, request a copy of the decision once made and to appeal a decision when allowed by law. In addition, the statement shall indicate that any person wishing to receive personal notice of any hearings must notify the hearing examiner’s office within 15 days (30 days for substantial development permits and major project permits for mitigation banks) of the date of the notice of application.

D. A notice of application shall be issued in the following manner:

1. The notice shall be published once in the official county newspaper. The applicant shall bear the responsibility of paying for such notice;

2. Additional notice shall be given using the following method:

   a. For sites within urban growth areas: At least 12 days prior to the scheduled hearing date, application notice shall be sent to all property owners within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor. Applicants shall submit, with their completed application, a stamped envelope with a typed address for each of the above referenced property owners;

   b. For sites outside urban growth areas: At least 12 days prior to the scheduled hearing date, application notice shall be sent to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor. Applicants shall submit, with their completed application, a stamped envelope with a typed address for each of the above referenced property owners;

3. All cost associated with providing notice shall be paid by the applicant.

E. Notices of application should be sent to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly, by the proposed development. (The county shall be responsible for such notification.)

F. With the exception of substantial development permit applications and major project permit applications for mitigation banks, a public comment period shall be 15 days following the date of notice of application. Substantial development permit applications and major project permit applications for mitigation banks require a 30-day period. All public comments received on the notice of application must be received in the department of planning and development services by 4:30 p.m. on or before the last day of the comment period. The county may require the applicant to pay the cost of providing notice.

G. No SEPA threshold determination shall be issued until the expiration of the public comment period established for the notice of application. This condition shall not apply if a determination of significance is made by the county.
H. Public notice given for project permit applications, SEPA documents, project hearings, and appeals hearings as required by this chapter and other provisions of the county code may be combined when practical, where such combined notice will expedite the permit review process, and where provisions applicable to each individual notice are met through the combined notice.

2.33.070 Notice of an open-record hearing.
A. A notice of open-record hearing shall be published by the hearing examiner once in the official county newspaper at least 10 days prior to an open-record hearing. The notice shall consist of the date, time, place, and type of the hearing. In addition, personal notice shall be provided to any person who has requested such notice in a timely manner, consistent with WCC 2.33.060(C)(8).

B. Additional notice shall be given within two days of the published notice by posting of three copies of the notice in a conspicuous manner on the property upon which the use is proposed. (Notices shall be provided by the county. The applicant shall be responsible for posting.)

C. An affidavit verifying distribution of the notice must be submitted to the county two working days prior to the open-record hearing.

D. Notices of an open-record hearing should be sent to neighboring cities and other agencies or tribes that will potentially be affected, either directly or indirectly, by the proposed development. The county shall be responsible for such notification.

E. All cost associated with providing notice shall be paid by the applicant.

2.33.080 Consistency review and staff report.
A. Fundamental land-use planning choices made in adopted comprehensive plans and development regulations shall serve as the foundation for project review. During project review, the review authority shall determine if the project proposal is consistent with the county’s comprehensive plan, other adopted plans, existing regulations and development standards. The review authority shall at a minimum use four criteria for determining consistency, as follows:

1. Type of land-use permitted on the site;

2. Density of development allowed on-site, such as units per acre or floor area ratio or lot coverage;

3. Availability and adequacy of public facilities and infrastructure (when applicable);

4. Character of the development.

B. The county may conduct a more specific evaluation in addition to the evaluation of the four main categories listed in subsection (A) of this section in considering project consistency when other criteria are required by federal, state or local regulations.
C. County staff shall file one consolidated report with the hearing examiner at least 17 days prior to a scheduled hearing. The staff report shall address the proposed development or action, summarizing the comments and recommendations of county departments, affected agencies, special districts and public comments received within the 15-day or 30-day comment period as established in WCC 2.33.060(F). The report shall also provide an evaluation of the project proposal for consistency as indicated in this section. The staff report shall include findings, conclusions, and proposed recommendations for response to the proposal.

D. The conclusions of a consistency determination made under this section shall be documented in the project permit decision.

2.33.090 Permit review limitations and notice of final decision.
A. Unless otherwise exempted in WCC 2.33.020 or subsection (C) of this section, the county shall issue a notice of final decision on a project permit application as follows:

1. Within 90 days of a determination of completeness if the project is exempt from SEPA review unless a shorter review period is provided in other provisions of the Whatcom County Code;

2. Within 90 days of a determination of completeness if the project is a subdivision under WCC Title 21 unless a shorter review period is provided in other provisions of the Whatcom County Code;

3. Within 120 days of a determination of completeness if the project is other than a subdivision and is subject to SEPA review unless a shorter review period is provided in other provisions of the Whatcom County Code;

B. In determining the number of days that have elapsed after an application is determined to be complete, the following time periods shall be excluded:

1. Any period during which the applicant has been required by the county to correct plans, perform required studies, or provide additional, required information.
   a. The period shall be calculated from the date the county notifies the applicant of the need for additional information until the date the county receives the additional information. The county shall have 14 days after the date the information has been provided to the county to determine adequacy of the information;
   b. If the information submitted by the applicant under this subsection is insufficient, the county shall notify the applicant of the deficiencies and the provisions of this section shall apply as if a new request for information has been made;

2. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW and WCC Title 16;
3. The period specified for administrative appeals of project permits as provided in Chapter 20.92 WCC;

4. The period specified for administrative appeals of development standards as provided in WCC 12.08.035(1);

5. Any period in which the applicant has not met public notification requirements;

6. Any period of time mutually agreed upon in writing by the applicant and the county;

C. The time limits established by subsections (A) and (B) of this section shall not apply to a project permit application that:

1. Requires an amendment to the Whatcom County comprehensive plan or a development regulation in order to obtain approval;

2. Requires approval of a new fully-contained community as provided in RCW 36.70A.350, a master-planned resort as provided in RCW 36.70A.360, or the siting of an essential public facility as provided in RCW 36.70A.200;

3. Is substantially revised by the applicant, including all redesigns of proposed land divisions pursuant to WCC 21.01.150, in which case a new time period shall start from the date at which the revised project application is determined to be complete;

D. The county may extend notice of final decision on the project if the county can document legitimate reasons for such a delay. In such a case the county shall provide written notice to the applicant at least 20 days prior to the deadline for the original notice of final decision. The notice shall include a statement of reasons why the time limits have not been met and a date of issuance of a notice of final decision.

E. The county shall not be liable for damages under this chapter due to the county’s failure to make a final decision within the time limits established in WCC 2.33.080.

F. Notice shall be made by mail to the applicant, the Whatcom County assessor, and any party of record.

G. Unless otherwise acted upon by the county in a manner consistent with this chapter, permit applications subject to this chapter shall be approved as submitted within the timeliness established in WCC 2.33.090.

2.33.100 Consolidated permit review.
A. At the request of the applicant, the county shall integrate and consolidate the review and decision on two or more project permits subject to this chapter that relate to the proposed project action.
B. If the applicant elects the consolidated permit review process, the determination of completeness, notice of application, and notice of final decision must include all project permits being reviewed through the consolidated permit review process.

C. The consolidated permit review may combine an open record hearing on one or more permits with an open record appeal hearing on other permits.

2.33.110 Open record hearings:
Open record hearings subject to this chapter shall be undertaken pursuant to Chapter 20.92 WCC and other relevant chapters relating to specific permit processes.

2.33.120 Annual report:
Staff shall prepare an annual report on the implementation of this chapter and submit it to the council.

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Chapter 2.160

COMPREHENSIVE PLAN AMENDMENTS

Reserved

[This chapter is proposed to be deleted in its entirety, with much of its content moved to the new Chapter 22.10 Legislative Action Procedures.]

Sections:
2.160.010 Authority;
2.160.020 Purpose;
2.160.030 Definitions—Types of comprehensive plan amendments;
2.160.040 Application;
2.160.050 Initiation of comprehensive plan amendments;
2.160.060 Docket of initiated comprehensive plan amendments;
2.160.070 Review and evaluation of comprehensive plan amendments—Staff report;
2.160.080 Approval criteria;
2.160.090 Review and evaluation of comprehensive plan amendments—Planning commission;
2.160.100 Review and evaluation of comprehensive plan amendments—County council;
2.160.110 Fees;

2.160.010 Authority:
The Growth Management Act (GMA) requires that an adopted comprehensive plan shall be subject to continuing review and evaluation, any amendments or revisions to the comprehensive plan conform to the requirements of Chapter 36.70A RCW, and that any changes to development regulations or official controls are consistent with and implement the comprehensive plan (RCW 36.70A.130(2)). Additionally, the GMA requires that the county establish procedures whereby proposed
amendments or revisions of the comprehensive plan are considered by the county council no more frequently than once every year, except, that amendments may be considered more frequently under the following circumstances:

A. The initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea;

B. Adoption or amendment of a shoreline master program;

C. The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

D. To resolve an appeal of the comprehensive plan filed with the Growth Management Hearings Board or court.

2.160.020 Purpose.
The purpose of this chapter is to define the types of plan amendments and establish timelines and procedures to be followed when proposals are made for amending or revising the Whatcom County Comprehensive Plan.

2.160.030 Definitions—Types of comprehensive plan amendments.
A. “Capital facilities element amendment” means a proposed change or revision to the capital facilities element of the comprehensive plan, including the six-year capital improvement program.

B. “Comprehensive plan amendment” means a proposed change or revision to the Whatcom County Comprehensive Plan, including but not limited to a capital facilities element amendment, text amendment, change to the comprehensive plan designations map or urban growth area amendment.

C. “Text amendment” means a proposed change or revision in the text of any element of the comprehensive plan including revisions to the goals, policies, objectives, principles or standards of the plan.

D. “Urban growth area amendment” means a proposed change or revision to an urban growth area boundary as adopted by the comprehensive plan.

E. “Final concurrent review” means the consideration by the county council of all comprehensive plan amendments that were reviewed and recommended by the council during the previous docket year. This review shall take place on or about February 1st of the year after the previous docket year.

2.160.040 Application.
A. Applications for suggested comprehensive plan amendments shall include at least the following information:

1. A description of the comprehensive plan amendment being proposed including proposed map or text changes;

2. An explanation of how the comprehensive plan amendment relates to the approval criteria in WCC 2.160.080, Approval criteria;
3. A complete State Environmental Policy Act (SEPA) environmental checklist; and

4. Name, address, and phone number of the applicant, and, if applicable, assessor’s parcel number, section, township, and range.

B. The department of planning and development services may prescribe additional information requirements and shall provide forms for proposed comprehensive plan amendments.

C. Completed applications for comprehensive plan amendments must be received by planning and development services by December 31st to be considered for initiation during the next calendar year. Applications proposed by planning and development services are not subject to the December 31st deadline.

2.160.050 Initiation of comprehensive plan amendments.
A. Comprehensive plan amendments shall be initiated by a resolution of the county council adopted by majority vote on or about March 1st each year.

B. Planning and development services may request a comprehensive plan item be initiated at any time during the year. Requested amendments of this type shall be placed on the docket by a majority vote of the county council and will be considered concurrently with other docketed items in accordance with the procedures in WCC 2.160.100.

C. In determining whether to initiate a comprehensive plan amendment, the county council will consider the following factors:

1. If the amendment relates to a site within a city’s urban growth area, modification of a city’s urban growth area boundary, or amends comprehensive plan text relating to a city’s urban growth area, the county shall consult with and consider the comments from the city, including comments relating to the availability of services. Proposed amendments to city urban growth areas shall be processed in accordance with adopted interlocal agreements between the city and county and any subsequent amendments;

2. If the amendment relates to removing designated agricultural, forestry or mineral resource lands, the council shall consider any long-term trends in the loss of resource lands and cumulative impacts of approving such an amendment;

3. Whether the county has already set a future date for examining the area or issue; and

4. Planning and development services’ existing work plan and the additional work the amendment would require of planning and development services staff.

D. The following amendment proposals shall be deemed initiated and included in the resolution that initiates comprehensive plan amendments:
1. Amendment proposals that the county council approves for initiation from those applications received within the application period;

2. Comprehensive plan amendments proposed by council members that the county council approves for initiation;

3. Amendment proposals timely submitted by cities and approved by the county council;

4. Amendment proposals timely submitted by the county executive.

E. The resolution setting the list of comprehensive plan amendments initiated for the amendment cycle, the docket, shall be forwarded to the department of planning and development services. Upon receipt of the resolution, the department shall make copies available to the public and begin the process for the review and evaluation of the proposed amendments as set out in WCC 2.160.070.

F. County planning and development staff shall forward a copy of any suggested plan amendment which would modify a city's urban growth area to the appropriate city staff within 15 days of receipt, and shall notify the city of the date the county council is scheduled to review the proposed amendment at least 10 days prior to consideration by the county council.

2.160.060 Docket of initiated comprehensive plan amendments.
A. The department of planning and development services shall keep a docket of initiated comprehensive plan amendments and WCC Title 20 map and text amendments as initiated by the procedures in WCC 2.160.050.

B. The docket shall include the following information:

1. File number;

2. Name and address of the person or agency proposing the plan amendment;

3. Type of amendment being proposed and description of the amendment;

4. Initial year of proposed amendment;

5. Section, township and range of affected area, if applicable.

C. The docket and all application files shall be available for public review at the planning and development services department during normal business hours.

2.160.070 Review and evaluation of comprehensive plan amendments—Staff report.
A. The department of planning and development services shall conduct environmental review under SEPA and prepare reports including recommendations on all initiated comprehensive plan amendments and forward both the reports and the result of the environmental review to the planning commission.
B. Reports shall evaluate the merits of each initiated amendment based on the approval criteria of WCC 2.160.080.

C. If a proposed amendment relates to a site within a city's urban growth area, will modify a city's urban growth area or will amend text relating to a city's urban growth area, planning and development services staff shall identify and follow any additional procedures called for in an adopted interlocal agreement between the county and that city.

2.160.080 Approval criteria.

A. In order to approve an initiated comprehensive plan amendment, the planning commission and the county council shall find all of the following:

1. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.

2. Further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the amendment.

3. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

   a. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

   b. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

   c. Anticipated impact upon designated agricultural, forest and mineral resource lands.

4. The amendment does not include or facilitate spot zoning.

5. Urban growth area amendments that propose the expansion of an urban growth area boundary shall be required to acquire development rights from a designated TDR sending area.

   a. One development right shall be transferred for every five acres included into an UGA. The county council may modify this requirement if a development agreement has been entered into that specifies the elements of development in the expanded UGA. The development agreement should include, but not be limited to, affordable housing, density, allowed uses, bulk and setback standards, open space, parks, landscaping, buffers,
critical areas, transportation and circulation, streetscapes, design standards and mitigation measures.

b. Exceptions to required TDRs include urban growth area expansion initiated by a government agency, correction of map errors, properties that are urban in character, or expansions where the public interest is served.

c. Urban growth area expansion initiated by the county, cities or other agencies shall be subject to review by county and city planning staff, and the appropriate administrative bodies, to determine whether the subject site is appropriate for designation as a TDR-receiving area.

2.160.090 Review and evaluation of comprehensive plan amendments—Planning commission.
A. The planning commission shall receive the staff's findings and recommendations for the initiated amendments and shall take public comment and hold public hearing(s) on the amendments.

B. At the conclusion of the public hearings and comment period, the commission shall evaluate the merits of each amendment in relationship to the approval criteria of WCC 2.160.080 and shall make a recommendation to the county council as to whether the amendments should be approved, approved with modifications or denied. The planning commission shall then cause written findings of fact, reasons for action, conclusions and recommendations to be prepared for each amendment. The written findings of fact, reasons for action and conclusions shall be forwarded to the county council in the form of a proposed ordinance(s) for its consideration.

2.160.100 Review and evaluation of comprehensive plan amendments—County council.
A. Comprehensive plan amendments, except for amendments adopted by emergency ordinance pursuant to Section 2.40 of the Whatcom County Charter, shall be adopted by ordinance after a recommendation by the planning commission has been submitted to the council for consideration. All initiated amendments to the comprehensive plan with the exception of amendments set forth in WCC 2.160.010 shall be considered by the council no more frequently than once a year and concurrently so the cumulative effect of the various proposals can be ascertained. The council may schedule such additional public hearings as the council deems necessary to serve the public interest.

B. If, after deliberating, the council believes the public interest may be better served by departing from the recommendation of the planning commission on an initiated amendment, the council shall conduct a public hearing on that amendment.

C. The council shall decide to approve, approve with modifications or deny comprehensive plan amendments based upon the approval criteria in WCC 2.160.080. Those amendments may be recommended for final concurrent review throughout the year. Final concurrent review by the county council should occur on or about February 1st.
D. The council shall send recommended comprehensive plan amendments on to final concurrent review by December 31st. Amendments that have not been either recommended or denied by the council by December 31st will be re-docketed for the next amendment cycle with the same number with which they were initially docketed.

2.160.110 Fees:
A. Application fees shall not be required for any application submitted by the county council, county councilmembers, county executive, planning commission, and county planning and development services.

B. All other applicants shall pay application fees as specified in the Unified Fee Schedule.

C. Once an amendment is initiated by resolution of the county council, the applicant shall pay the initiation fee within 15 days. The county council may take official action to waive the initiation fee at the time it approves the initiating resolution if it finds the proposed amendment will clearly benefit the community as a whole and will not be for private financial gain.
EXHIBIT C

Whatcom County Code Title 9
Public Peace, Morals and Welfare

Whatcom County Code Title 15
Building Codes

Whatcom County Code Title 16
Environment

Whatcom County Code Title 23
Shoreline Management Program

Whatcom County Code Title 24
Health

AMENDMENTS

Whatcom County Code Title 9
Public Peace, Morals and Welfare

Chapter 9.52
EROTIC DANCE STUDIOS

9.52.160 Appeals to the council.
Interested parties may appeal adverse decisions of the hearing examiner to the county council, under the provisions of Whatcom County Code Chapter 20.92.600 22.05.

Whatcom County Code Title 15
Building Codes

Chapter 15.04

15.04.010 Adoption of referenced codes.
15.04.015 Department of building safety.
15.04.016 Project Permit Review Procedures.
15.04.020 Amendments to the International Building Code.
15.04.030 Amendments to the International Residential Code.
15.04.040 Amendments to the International Fire Code.
15.04.050 Permit expirations and violations of the above-referenced codes.

15.04.016 Project Permit Review Procedures
All applications for project permits shall be reviewed and processed in accordance with WCC 22.05, except as otherwise stated within this title. Appeals of Title 15 fire and building code requirements shall be made to the board of appeals per current building code. The hearing examiner shall be the appeal body for appeals of non-fire and building code requirements associated with project permits required by this Title.

15.04.020 Amendments to the International Building Code.

5. Section 105.3, Application for Permit, is amended to include the following:

To obtain the permit, the applicant shall first file an application therefor in writing on a form furnished-provided by the department of building safety for that purpose. Such application shall: and shall include all items as stated in the department’s administrative manual.
1. Identify and describe the work to be covered by the permit for which application is made.

2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use and occupancy for which the proposed work is intended.

4. Be accompanied by construction documents and other information as required in Section 107.

5. State the valuation of the proposed work.

6. Be signed by the applicant or the applicant's authorized agent.

7. Include signature by the applicant or the applicant’s authorized agent of a statement for guarantee of fee payment. The statement must be signed in the presence of County staff or staff will provide a statement which includes verification of signature by a licensed notary public.

8. Provide verification of approval to connect to a public sewer system or a septic system installation permit issued by the Whatcom County Environmental Health Department for any permit application that requires sewage disposal. The approval to connect or issued septic system permit shall be specific to the project application.

9. Provide additional data and information in the designated sequence, as required by the Building Official.

15.04.030 Amendments to the International Residential Code.

D. Section R105.3, Application for permit, is amended to include the following:

To obtain the permit, the applicant shall first file an application in writing on a form provided by the department and shall include all items as stated in the department’s administrative manual.

To obtain the permit, the applicant shall first file an application therefor in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.

2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use and occupancy for which the proposed work is intended.

4. Be accompanied by construction documents and other information as required in Section 107.

5. State the valuation of the proposed work.
6. Be signed by the applicant, or the applicant’s authorized agent.

7. Include signature by the applicant or the applicant’s authorized agent of a statement for guarantee of fee payment. The statement must be signed in the presence of County staff or staff will provide a statement which includes verification of signature by a licensed notary public.

8. Provide verification of approval to connect to a public sewer system or a septic system installation permit issued by the Whatcom County Environmental Health Department for any permit application that requires sewage disposal. The approval to connect or issued system permit shall be specific to the project application.

9. Provide additional data and information in the designated sequence, as required by the Building Official.

Whatcom County Code Title 16
Environment

Chapter 16.08
STATE ENVIRONMENTAL POLICY ACT (SEPA)

Chapter 16.16
CRITICAL AREAS

[Note: on December 27, 2017 the recently adopted Chapter 16.16 Critical Areas Regulations amendments went into effect. Staff has proposed amendments to the procedural sections to 16.16. These changes were not reviewed by the Whatcom County Planning Commission, however it was recommended these changes be included and reviewed in the Title 22 amendment.]

ARTICLE 2. ADMINISTRATIVE PROVISIONS

16.16.205 Authorizations Required.
A. No action shall be taken by any person, company, agency, governmental body (including Whatcom County), applicant, owner, or owner’s agent, which results in any alteration of a critical area or its setback or buffer without prior authorization by submitting an application to the Technical Administrator and
obtaining either the required permit or an approval of a notice of activity, as specified herein.

B. No land use development permit, construction permit, or land division approval required by County ordinance shall be granted until the County decision-maker has determined that the applicant has complied with the applicable purposes, requirements, objectives, and goals of this chapter including the mitigation standards set forth in WCC 16.16.260.

C. Project permits must comply with the substantive and procedural requirements of this chapter and the procedural requirements of Chapter 2.33 WCC shall comply with all provisions of this chapter, Title 22 and the department’s administrative manual.

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16.16.215 Relationship to Other Jurisdictions.
A. Permit applicants are responsible for complying with all federal, state, tribal, and local regulations that may pertain to a proposed development. Compliance with the provisions of this chapter does not necessarily constitute compliance with other regulations and permit requirements.

B. In cases where other agencies have jurisdiction over critical areas and the technical administrator determines that the permit conditions imposed by such agencies are no less protective and satisfy the requirements of this chapter, those permit conditions may be substituted as the conditions of approval for the requirements of this chapter. Such agencies may include, but are not limited to, the Lummi Nation; the Nooksack Tribe; the United States Army Corps of Engineers; the United States Environmental Protection Agency; the United States Fish and Wildlife Service; the National Marine Fisheries Service or NOAA Fisheries; and the Washington State Departments of Ecology, Natural Resources, and Fish and Wildlife.

C. The County shall make detailed written findings required by Chapter WCC 2.33 22.05 and WCC 16.16.250 when adopting conditions of another jurisdiction’s permit. Such requirements shall be a condition of critical area approval and enforceable by the County. In the event that there is a conflict between permit requirements and the standards of this chapter, the more restrictive standards shall apply.

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16.16.240 Technical Administrator and Hearing Examiner Authority.
The technical administrator is the Whatcom County director of planning and development services or his/her designee. The hearing examiner is appointed by the County Council. The technical administrator and the County Hearing Examiner shall administer and enforce the provisions of this chapter pursuant to the following:
A. The technical administrator shall have the primary responsibility for reviewing development proposals for compliance with this chapter and is authorized to approve, deny, or condition permits in accordance with the standards set forth herein. The technical administrator shall also have the following authority:

1. Authority to convene an interdisciplinary team to assist in reviewing development proposals or to solicit review from outside experts in accordance with WCC 16.16.245.

2. Authority to grant, condition, or deny reasonable use permits for single-family residential building permits within critical areas and/or their buffers

3. Authority to grant, condition, or deny reasonable use permits for other development proposals that would affect critical area buffers, but not the critical areas themselves

4. Authority to serve a cease and desist order pursuant to WCC 16.16.285 upon a person undertaking activity within a critical area or buffer in violation of this chapter.

5. Any additional responsibility and/or authority specifically provided for in the subsequent articles of this chapter.

B. The technical administrator’s authority shall transfer to another County decision-maker when another decision-maker is specified for a separate project permit. In such cases, the technical administrator shall ensure that all procedural requirements of this chapter are met and shall make a recommendation to the designated decision-maker as to how the provisions of this chapter apply to the permit action, including project permits.

C. The Whatcom County hearing examiner is hereby vested with responsibility and authority to hear appeals and perform the following duties:

1. Authority to grant or deny variances.

2. Authority to grant, condition, or deny reasonable use permits for all developments, except single-family building permits, affecting critical areas.

3. Authority to decide on appeals of administrative decisions including, but not limited to, reasonable use permits issued by the technical administrator.

4. Authority to hold public hearings pursuant to Chapters 20.8422.05 and 20.92 WCC.

D. In granting, revising, or extending a permit, the technical administrator, or hearing examiner, as applicable, may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other features of the proposed development deemed necessary to assure that the development is consistent with criteria set forth in this chapter. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to allow for
future review or reevaluation to assure conformance with this chapter. The technical administrator and/or hearing examiner shall render a final decision in accordance with the timelines established in WCC 2.33.09022.05 and 20.92.430, as applicable. All decisions of the technical administrator and hearing examiner may be appealed pursuant to WCC 20.84.240 and 20.92.600/WCC 22.05.160.

A. All applicants shall complete a prescreening meeting with the technical administrator prior to submitting an application subject to this chapter. The purpose of this meeting shall be to discuss the requirements for a complete application; the critical area standards and procedures; to review conceptual site plans prepared by the applicant; to discuss appropriate investigative techniques and methods; and to determine reporting requirements.

B. Review and approval of a proposed development within a critical area or its buffer may be initiated through the application for any project permit in Whatcom County.

C. The technical administrator shall be responsible, in a timely manner, to make one of the following determinations regarding critical areas review:

1. Initial Determination. When County critical area maps or other sources of credible information indicate that a site may be located, contain or abut critical areas, critical area buffers or setbacks the technical administrator shall require technical studies in accordance with that critical area's specific Article.

2. Determination of Impacts. The technical administrator shall use best available science, including but not limited to the County’s critical areas maps, his/her field investigation results, his/her own knowledge of the site, information from appropriate resource agencies, or documentation from a scientific or other credible source to determine if the project will more probably than not adversely impact a critical area or its buffer. Identified adverse impacts shall be fully mitigated in accordance with WCC 16.16.260.

3. Determination of Compliance. If the applicant demonstrates to the satisfaction of the Technical Administrator that the project meets the provisions of this chapter and is not likely to adversely affect the functions and values of critical areas or buffers or provides mitigation to reduce the adverse impact to meet no net loss of the function and values of critical areas or its buffer, the technical administrator shall make the determination that the proposal complies with this chapter.

4. Decision to Approve, Condition, or Deny. The technical administrator shall review all pertinent information pertaining to the proposed development and shall approve, approve with conditions, or deny the permit based on their review, and shall provide a detailed written decision. This determination shall
be included in the project review record for the project permit in accordance with Chapter 2.3322.05 WCC.

16.16.261 Alternative or Innovative Mitigation Plans.

A. The County shall consider and may approve alternative or innovative mitigation plans for major developments (as defined in Article 9 of this chapter), planned unit developments (pursuant to Chapter 20.85 WCC), and/or development agreements (pursuant to RCW 36.70B.170 through 36.70B.210).

B. If approved, said plan shall be used to satisfy the requirements of this chapter and provide relief and/or deviation as appropriate from the specific standards and requirements thereof; provided, that the standards of impact avoidance and minimization shall remain as guiding principles in the application of these provisions and when it is demonstrated that all of the following circumstances exist:

1. The proponent(s) demonstrate the organizational and fiscal capability to carry out the purpose and intent of the plan;

2. The proponent(s) demonstrate that long-term management, maintenance, and monitoring will be adequately funded and effectively implemented;

3. There is a clear likelihood for success of the proposed plan based on supporting scientific information or demonstrated experience in implementing similar plans;

4. In terms of functional value, the proposed mitigation plan results in equal or greater protection and conservation of critical areas functions, services, and values than would be achieved using parcel-by-parcel regulations and/or traditional mitigation approaches;

5. The plan is consistent with the general purpose and intent of this chapter, the Shoreline Management Program (WCC Title 23), and the comprehensive plan;

6. The plan shall contain relevant management strategies considered effective and within the scope of this chapter and shall document when, where, and how such strategies substitute for compliance with the specific standards herein; and

7. The plan shall contain clear and measurable standards for achieving compliance with the purposes of this chapter, a description of how such standards will be monitored and measured over the life of the plan, and a fully funded contingency plan if any element of the plan does not meet standards for compliance.
C. Alternative mitigation plans shall be reviewed concurrently with the underlying land use permit(s) and decisions to approve or deny such plans shall be made in accordance with the underlying permit process. The plan shall be reviewed by the technical administrator to ensure compliance with the general purpose and intent of this chapter and to ensure accuracy of the data and effectiveness of proposed management strategies. In making this determination the technical administrator shall consult with the State Departments of Fish and Wildlife, Ecology, Natural Resources, and/or other local, state, federal, and/or tribal agencies or experts. If the technical administrator finds the plan to be complete, accurate, and consistent with the purposes and intent of this chapter, the designated decision-maker shall solicit comment pursuant to the public notice provisions of Chapter 2.3322.05 WCC prior to final approval/denial of permission of the plan to substitute for the requirements and standards of this chapter.

16.16.262 Watershed-Based Management Plans.
A. The County may consider watershed-based management plans sponsored by watershed improvement districts, other special purpose districts, or other government agencies.

B. If approved, said plan shall be used to satisfy the requirements of this chapter and provide relief and/or deviation as appropriate from the specific standards and requirements thereof; provided, that the standards of impact avoidance and minimization shall remain as guiding principles in the application of these provisions and when it is demonstrated that all of the following circumstances exist:

1. The proponent(s) demonstrate the organizational and fiscal capability to carry out the purpose and intent of the plan;

2. The proponent(s) demonstrate that long-term management, maintenance, and monitoring of the watershed will be adequately funded and effectively implemented;

3. There is a clear likelihood for success of the proposed plan based on supporting scientific information or demonstrated experience in implementing similar plans;

4. In terms of functional value, the proposed mitigation plan results in equal or greater restoration, protection, and conservation of the impacted critical areas than would be achieved using parcel-by-parcel regulations and/or traditional mitigation approaches;

5. The plan is consistent with the general purpose and intent of this chapter, the comprehensive plan, and an approved watershed plan prepared pursuant to Chapter 90.82 RCW (the State Watershed Management Act) or the plan is prepared under other local or state authority that is consistent with the goals
and policies of an applicable and approved watershed plan prepared pursuant to Chapter 90.82 RCW;

6. The plan shall contain relevant management strategies considered effective and within the scope of this chapter and shall document when, where, and how such strategies substitute for compliance with the specific standards herein; and

7. The plan shall contain clear and measurable standards for achieving compliance with the purposes of this chapter, a description of how such standards will be monitored and measured over the life of the plan, and a fully funded contingency plan if any element of the plan does not meet standards for compliance.

C. Watershed-Based Management Plans shall be approved by the County Council by ordinance and appended to this chapter. The process for approval shall be as follows:

1. The plan shall be reviewed by the technical administrator to ensure compliance with the purposes of this chapter, the Whatcom County Shoreline Management Program (WCC Title 23), and with the comprehensive plan, and to ensure accuracy of the data and effectiveness of proposed management strategies. In making this determination the technical administrator shall consult with the State Departments of Fish and Wildlife, Ecology, Natural Resources, and/or other local, state, federal, and/or tribal agencies or experts.

2. If the technical administrator finds the plan to be complete, accurate, and consistent with the purposes and intent of this chapter, the designated decision-maker shall solicit comments pursuant to the public notice provisions of Chapter 2.23 22.05 WCC prior to final approval/denial of permission of the plan to substitute for the requirements and standards of this chapter.

3. The designated decision-maker shall not approve watershed-based management plans that conflict with Chapter 90.82 RCW.


16.16.263 Mitigation Banking.
A. The County may approve mitigation banking as a form of compensatory mitigation for wetland and habitat conservation area impacts when the provisions of this chapter require mitigation and when it is clearly demonstrated that the use of a bank will provide equivalent or greater replacement of critical area functions and values when compared to on-site mitigation; provided, that all of the following criteria are met:

1. Banks shall only be used when they provide significant ecological benefits including long-term conservation of critical areas, important species, habitats and/or habitat linkages, and when they are consistent with the County
Comprehensive Plan and create a viable alternative to the piecemeal mitigation for individual project impacts to achieve ecosystem-based conservation goals.

2. The bank shall be established in accordance with the Washington State Draft Mitigation Banking Rule, Chapter 173-700 WAC or as revised, and Chapter 90.84 RCW and the federal mitigation banking guidelines as outlined in the Federal Register, Volume 60, No. 228, November 28, 1995. These guidelines establish the procedural and technical criteria that banks must meet to obtain state and federal certification.

3. Preference shall be given to mitigation banks that implement restoration actions that have been identified formally by an adopted shoreline restoration plan, watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a salmonid recovery plan or project that has been identified on the Watershed Management Board Habitat Project List or by the Washington State Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement.

B. Mitigation banks shall require a major project permit in accordance with Chapter 20.88 WCC and shall be subject to a formal review process including public review as follows:

1. The bank sponsor shall submit a bank prospectus for County review. The prospectus shall identify the conceptual plan for the mitigation bank, including:

   a. The ecological goals and objectives of the bank;

   b. The rationale for site selection, including a site map and legal description of the prospective bank site;

   c. A narrative demonstrating compliance with the Whatcom County comprehensive plan, associated development standards and this chapter, shoreline restoration plan, watershed planning documents prepared and adopted pursuant to Chapter 90.82 RCW, and/or the salmonid recovery plan;

   d. A description of the existing site conditions and expected changes in site conditions as a result of the banking activity, including changes on neighboring lands;

   e. A conceptual site design;

   f. A description of the proposed protective mechanism such as a conservation easement; and

   g. Demonstration of adequate financial resources to plan, implement, maintain, and administer the project.
2. The technical administrator shall review the bank prospectus either by participating in the state’s Mitigation Bank Review Team (MBRT) process and/or by hiring independent, third-party expertise to assist in the review.

3. If the technical administrator determines that the bank prospectus is complete, technically accurate, and consistent with the purpose and intent of this chapter, s/he shall forward the prospectus to the County Council for initial review. If the proposed bank involves conversion of agricultural land to nonagricultural uses, the County Council shall seek a recommendation from the Agricultural Advisory Committee as to whether the conversion should be allowed. The Committee’s recommendation shall be nonbinding. The County Council may require mitigation for the loss of agricultural lands.

4. If the County Council determines, based on the initial review, that the prospectus is valid, it shall issue a notice to proceed to the bank sponsor. Following receipt of the notice to proceed, the bank sponsor may submit application for a major project permit in accordance with Chapter 20.88 WCC. The notice to proceed shall not be construed as final approval of the bank proposal, but shall indicate approval to proceed with the development of the mitigation bank instrument, which details all of the legal requirements for the bank.

5. Upon receipt of a draft mitigation banking instrument from the bank sponsor and major project permit application, the technical administrator shall review the banking instrument and major project permit in consultation with the MBRT and/or other third-party expert. Following review of the mitigation banking instrument and major project permit, the technical administrator shall make a recommendation to certify and approve, conditionally certify and approve, or deny the bank proposal and major project permit in accordance with the procedures-provisions of Chapters 20.88 and 22.05 WCC.

6. Following receipt of the recommendation, the County Council shall proceed with review in accordance with the procedures-provisions outlined in Chapters 20.88 and 22.05 WCC.

7. The bank sponsor shall be responsible for the cost of any third-party review.

16.16.270 Reasonable Use Exceptions.
A. Permit applicants for a property so encumbered by critical areas and/or buffers that application of this chapter—including buffer averaging, buffer reduction, or other mechanism—would deny all reasonable use may seek approval pursuant to the reasonable use standards and procedures provided in this section.

B. Reasonable Use Standards.
1. Nothing in this chapter is intended to preclude all reasonable economic use of property. If the application of this chapter would deny all reasonable economic use of the subject property, including agricultural use, use or development shall be allowed if it is consistent with the zoning code and the purposes of this chapter.

2. To qualify as a reasonable use, the technical administrator or hearing examiner, as appropriate, must find that the proposal is consistent with all of the following criteria:

   a. There is no portion of the site where the provisions of this chapter allow reasonable economic use, including agricultural use or continuation of legal nonconforming uses;

   b. There is no feasible alternative to the proposed activities that will provide reasonable economic use with less adverse impact on critical areas and/or buffers. Feasible alternatives may include, but are not limited to, locating the activity on a contiguous parcel that has been under the ownership or control of the applicant since September 30, 2005, change in use, reduction in size, change in timing of activity, and/or revision of project design;

   c. Activities will be located as far as possible from critical areas and the project employs all reasonable methods to avoid adverse effects on critical area functions and values, including maintaining existing vegetation, topography, and hydrology. Where both critical areas and buffer areas are located on a parcel, buffer areas shall be disturbed in preference to the critical area;

   d. The proposed activities will not result in adverse effects on endangered or threatened species as listed by the federal government or the state of Washington, or be inconsistent with an adopted recovery plan;

   e. Measures shall be taken to ensure the proposed activities will not cause degradation of groundwater or surface water quality, or adversely affect drinking water supply;

   f. The proposed activities comply with all state, local and federal laws, including those related to erosion and sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;

   g. The proposed activities will not cause damage to other properties;

   h. The proposed activities will not increase risk to the health or safety of people on or off the site;

   i. The inability to derive reasonable economic use of the property is not the result of segregating or dividing the property and/or creating the condition of lack of use after September 30, 2005;
j. The project includes mitigation for unavoidable critical area and buffer impacts in accordance with the mitigation requirements of this chapter;

k. For single-family residences, the maximum impact area may be no larger than 4,000 square feet. This impact area shall include the residential structure as well as appurtenant development that are necessarily connected to the use and enjoyment of a single-family residence. These appurtenant developments include garages, decks, driveways, parking, on-site septic systems, and all lawn and non-native landscaping, with the following exceptions:

i. On lots outside of the shoreline jurisdiction, when an extended driveway is necessary to access a portion of a development site with the least impact on critical area and/or buffers, those portions of the driveway shall be excluded from the 4,000 square foot maximum impact area provided that the access road meets the standards of WCC 16.16.620(E) or 16.16.720(C), as applicable.

ii. On lots within the shoreline jurisdiction, when an extended driveway is necessary to access a portion of a development site with the least impact on critical area and/or buffers, approval of those driveway portions shall be sought through a Shoreline Variance (WCC 23.60.030) and demonstrate that the size and location of the driveway is the minimum relief necessary to access the development site.

C. Reasonable Use Procedures,

1. Procedural requirements for reasonable use exception applications shall be as follows:

   a. Reasonable use exception applications shall be subject to an open record public hearing; except, that reasonable use exception applications for single-family residential building permits, or for other development proposals that would affect critical area buffers, but not the critical areas themselves, shall be processed administratively by the technical administrator.

   b. Reasonable use exception applications that require an open record hearing shall be processed in accordance with Chapter 2.33 WCC and WCC 20.84.23022.05.

   c. Reasonable use exception applications that are subject to administrative approval by the technical administrator shall be processed in accordance with WCC 20.84.23522.05.

   d. The hearing examiner or technical administrator shall have the authority to set an expiration date for any or all reasonable use approvals. The development proposal must be completed before the approval expires.
e. Any person aggrieved by the granting, denying, or rescinding of a reasonable use exception by the technical administrator or any party of record may appeal the Technical Administrator’s decision pursuant to WCC 16.16.280 or the hearing examiner decision pursuant to Chapter 20.9222.05 WCC.

f. Any application for a reasonable use exception or approval which remains inactive for a period of 180 days shall expire and a new application and repayment of fees shall be required to reactivate the proposal; provided, that the technical administrator may grant a single 90-day extension for good cause. Delays such as those caused by public notice requirements, environmental (SEPA) review, litigation directly related to the proposal, or changes in government regulations shall not be considered as part of the inactive period.

2. All reasonable use exception applications or other approvals shall be subject to the provisions of this chapter, which are in effect at the time of application.

3. Each application for a reasonable use exception shall be accompanied by a fee as stated in the unified fee schedule.

4. In making reasonable use decisions, the technical administrator shall have the authority to require submittal of technical reports in accordance with WCC 16.16.255 and/or 16.16.260(B).

16.16.273 Variances.

Where strict application of dimensional requirements of this chapter renders compliance with these provisions an undue hardship and when no other feasible alternative exists; permit applicants may seek a variance pursuant to WCC 20.84.100. A variance application shall be processed pursuant to WCC 22.05.

A. Where strict application of requirements of this chapter renders compliance with these provisions an undue hardship, permit applicants may seek a variance pursuant to the variance standards and procedures provided in this section.

A. Variance Standards. The hearing examiner may grant a variance from the dimensional requirements in this chapter when the applicant proves by clear, cogent, and convincing evidence all of the following:

1. Because of special circumstances applicable to the subject property, including, but not limited to, size, shape, topography, location, surroundings, and other physical conditions, the application of this chapter precludes development of the property by the property owner as otherwise allowed in WCC Title 20; and;

2. The granting of the variance will not be injurious to the health or safety of the community and every reasonable effort has been made to minimize adverse effects on critical areas; and;
3. The variance does not constitute a grant of special privilege, and is not based upon reasons of hardship caused by previous actions of the current property owner after July 18, 1992, and the proposed modification to a critical area will be the minimum necessary to allow reasonable and economically viable use of the property; and,
4. The project includes mitigation for unavoidable critical area and buffer impacts;
5. No other feasible alternative exists.

B. Variance Procedures:

1. Procedural requirements for variances applications shall be as follows:
   a. Variance applications shall be subject to an open-record public hearing, processed in accordance with Chapter 2.33 WCC and WCC 20.84.230.
   b. The hearing examiner shall have the authority to set an expiration date for any or all variance approvals. The development proposal must be completed before the approval expires. The hearing examiner will render a decision pursuant to Chapter 20.92 WCC.
   c. Any party of record may appeal the hearing examiner decision pursuant to Chapter 20.92 WCC.
   d. Any application for a variance that remains inactive for a period of 1 year shall expire and a new application and repayment of fees shall be required to reactivate the proposal; provided, that the technical administrator may grant up to two 1-year extensions for good cause. Delays such as those caused by public notice requirements, environmental (SEPA) review, litigation directly related to the proposal, or changes in government regulations shall not be considered as part of the inactive period.
2. All variance applications shall be subject to the provisions of this chapter that are in effect at the time of application.
3. Each application for a variance shall be accompanied by a fee as stated in the unified-fee schedule.
4. In making variance decisions, the hearing examiner shall require submittal of technical reports in accordance with WCC 16.16.255 and/or 16.16.260(B).

16.16.280 Appeals.

A. Final permit decisions made by the technical administrator shall be subject to appeal in accordance with the procedures of Chapter 2.3322.05 WCC and WCC Title 20; provided, that the applicant may request administrative review by the director of planning and development services prior to initiating a formal appeal process. Decisions of conditions applied to specific permits shall be subject to the appeal provisions for that permit. A request for administrative review shall stay the time within which one must file an appeal until a decision on the review is issued.

B. Any person may appeal to the hearing examiner a final administrative order, final requirement, final permit decision, or final determination made; provided, that such appeal shall be filed in accordance with the appeal procedure for the underlying permit. If there is no appealable permit or if the appeal is for a
reasonable use permit decision issued by the technical administrator, the appeal shall be filed in writing within 14 calendar days of the date the written decision, order, requirement, or determination is issued and public notice provided, unless the decision is issued as part of a SEPA determination of nonsignificance for which a public comment period is required, in which case a 21-day appeal period shall be provided.

C. The appeal will be upheld if the applicant proves that the decision appealed is clearly erroneous or based upon error of law.

D. The hearing examiner shall have the authority to set an expiration date for any or all appeal approvals. The hearing examiner will render a decision pursuant to Chapter 20.92 WCC.

E. Each application for an appeal of an administrative decision to the hearing examiner shall be accompanied by a fee as stated in the unified fee schedule.

F. Pursuant to WCC 20.92.610, the appellant, any party of record, or any County department may appeal any final decision of the hearing examiner to the County Council. The appellant shall file a written notice of appeal at the County Council office within 10 business days of the final decision of the Hearing Examiner.

G. Any issue not raised in the original appeal filing is thereafter waived.

Whatcom County Code Title 23
Shoreline Management Program

Chapter 23.05
ADMINISTRATIVE PROCEDURES

23.05.010 Administrative procedures. Authority

23.05.020 Purpose.

23.05.030 Administrative procedures.

23.05.010-Administrative procedures Authority.
As described in adopted Whatcom County Ordinance 2008-034, the general administrative sections of Title 23 (Whatcom County Shoreline Management
Program) are not part of this program. They are, however, included with the text of
this title for consistency and ease of use. Department of Ecology will be notified of
any changes to the administrative chapters listed below.

The use of separate local administrative and enforcement procedures is consistent
with the 2003 Washington State Shoreline Master Program Guidelines (WAC 173-
26-191(2)(a)(iii)(C)), Administrative provisions:

Local governments may include administrative, enforcement, and permit
review procedures in the master program or the procedures may be
defined by a local government ordinance separate from the master
program. In either case, these procedures shall conform to the Shoreline
Management Act, specifically RCW 90.58.140, 90.58.143, 90.58.210 and
90.58.220 and to chapter 173-27 WAC.

23.05.020 Purpose.
The purpose of this chapter is to This allows Whatcom County to revise local
administrative procedures (fees, application meetings, authority of administrator,
etc.) without another a formal state amendment process. These chapters must still
be consistent and remain consistent with the related provisions in the Shoreline
Management Act and state shoreline rules (WACs). In the event of a conflict, the
state RCW or WAC, as amended, will prevail over the local ordinance.

23.05.030 Administrative procedures.

A. All applications for project permits covered by this title shall be reviewed and
processed in accordance with WCC 22.05, except as otherwise stated within
this title.

B. The following sections and chapters are part of were adopted by the Whatcom
County Administrative Procedures Ordinance 2008-034, and are separate
from this title:

WCC 23.60.050 – Minimum application requirements.
WCC 23.60.060 – Preapplication conference.
WCC 23.60.070 – Fees.
WCC 23.60.080 – Notice of application.
WCC 23.60.090 – Permit application review.
WCC 23.60.100 – Consolidated permit review.
WCC 23.60.110 – State Environmental Policy Act (SEPA) compliance.
WCC 23.60.130 – Public hearings.
WCC 23.60.140 – Permit conditions.
WCC 23.60.150 – Notice of decision, reconsideration and appeal.
WCC 23.60.160 – Initiation of development.
WCC 23.60.180 – Rescission and modification.
WCC 23.60.190 – Expiration.
Chapter 23.70 WCC – Administration.
Chapter 23.80 WCC – Legal Provisions.
23.60.050 Minimum application requirements.
A. Where other approvals or permits are required for a use or development that does not require an open record hearing, such approvals or permits shall not be granted until a shoreline approval or permit is granted. All shoreline approvals and permits shall include written findings prepared by the administrator documenting compliance with bulk and dimensional standards and other policies and regulations of this program.

B. A complete application for a substantial development, conditional use, or variance permit shall contain all materials required in the department's administrative manual, at a minimum, the following information; provided, that the administrator may vary or waive these requirements according to as provided in the manual-administrative-application-requirements and may vary or waive these requirements on a case-by-case basis. The administrator may require additional specific information depending on the nature of the proposal and the presence of sensitive ecological features or issues related to compliance with other county requirements.

1. Applicant/Proponent Information:
   a. The name, address and phone number of the applicant/proponent; applicant's representative; and/or property owner if different from the applicant/proponent;

   b. The applicant/proponent should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent;

2. Property Information:
   a. The property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location;

   b. Identification of the name of the shoreline (water body) that the site of the proposal is associated with;

   c. A general description of the property as it now exists including its use; physical and ecological characteristics, improvements and structures;

   d. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics;

   e. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.
3. A site plan identifying existing conditions consisting of photographs, text, maps and elevation drawings, drawn to an appropriate scale to clearly depict all required information, that shall include:

a. The boundary of the parcel(s) of land upon which the development is proposed. A survey may be required where substantial questions exist regarding the location of property lines or other important features.

b. The ordinary high water mark of all water bodies within, located on or adjacent to the project boundary. For any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark, the applicant/proponent shall provide a survey and describe the biological and hydrological basis for the location as indicated on the plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.

c. Existing land contours at intervals sufficient to accurately determine the existing character of the property. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.

d. Existing critical areas as designated in Chapter 16.16 WCC together with any supporting information consistent with the reporting requirements of Chapter 16.16 WCC.

e. A description of the character of vegetation found on the site, including dominant plant species, vegetation structure, presence of invasive species and related information. A vegetation survey of plant communities may be required.

f. A description of the existing conditions including the ecological functions and processes affecting, maintaining, or influencing the shoreline.

g. The dimensions and locations of all existing structures and improvements including but not limited to: buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, and stormwater management facilities.

4. A site plan and supporting information describing the features of the proposed development:

a. The dimensions and locations of all proposed structures and improvements including but not limited to: buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.

b. Proposed land contours overlain on existing contours. The contours shall be at intervals sufficient to accurately determine the extent of
proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.

c. Where applicable, a landscaping plan for the project.

d. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.

e. Quantity, composition and destination of any excavated or dredged material.

f. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.

g. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.

h. A summary characterization of the effects of the project on existing ecological functions and processes in the vicinity of the project. If the project is likely to have adverse effects on shoreline ecological functions or processes, a mitigation plan shall be provided demonstrating measures that will be taken to offset impacts in accordance with the policies in WCC 23.90.030.

i. Where applicable, critical area mitigation plans in accordance with WCC 16.16.260.

j. On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

5. Shoreline permits shall be applied for on forms provided by the county.

6. Operation and maintenance plan(s) as required pursuant to other applicable sections of this program.

23.60.060 Pre-application conference.
A. Prior to filing a permit application for a shoreline substantial development permit, variance or conditional use permit decision, the applicant shall contact the county to schedule a preapplication conference which shall be held prior to filing the application; provided, that such meetings shall not be required for development activities associated with shoreline restoration projects, agriculture, commercial forestry, or the construction of a single-family residence.

B. The purpose of the preapplication conference is to review and discuss the application requirements with the prospective applicant and provide initial comments on the development proposal. The preapplication conference shall be scheduled by the county, at the request of an applicant, and shall be held in a
timely manner, within 30 days from the date of the applicant’s request. A project coordinator shall be assigned by the county following the preapplication conference.

C. The administrator may waive the requirement for a preapplication conference if it is determined to be unnecessary for review of an application. Nothing in this section shall be interpreted to require more than one preapplication conference or to prohibit the applicant from filing an application if the county is unable to schedule a preapplication conference within 30 days following the applicant’s request.

D. Information presented at or required as a result of the preapplication conference shall be valid for a period of 180 days following the preapplication conference. An applicant wishing to submit a permit application more than 180 days following a preapplication for the same permit application shall be required to schedule another preapplication conference.

E. At or subsequent to a preapplication conference, the county may issue a preliminary determination that a proposed development is not permissible under applicable county policies or regulatory enactments. In that event, the applicant shall have the option to appeal the preliminary determination to the hearing examiner as provided for in WCC 23.60.150 as an alternative to proceeding with a complete application.

23.60.070 Fees.
A. Required fees for all shoreline substantial development permits, shoreline conditional use permits, shoreline variances, statements of exemption, appeals, preapplication conferences and other required reviews and/or approvals shall be paid to the county at the time of application in accordance with the Whatcom County unified fee schedule in effect at that time and WCC 22.25.

B. When any given project requires more than one of the following permits or applications, the total amount of shoreline fees shall be reduced by 25 percent pursuant to WCC 22.25.030:

1. Preliminary plat application.
2. Rezone application.
3. Major development permit.
4. Planned unit development.
5. Binding site plan.

C. When any project requires a shoreline conditional use permit or shoreline variance in addition to a shoreline substantial development permit, the fees for the conditional use or variance shall be reduced by half.

D. In the event that actions of an applicant result in the repetition of the review, inspections and other steps in the approval process, those items or steps repeated shall be charged to and paid by the applicant prior to any further processing of the
application by the county. The cost shall be in accordance with the adopted fee schedule.

E. If an application is withdrawn within 30 days of submittal, and no work has commenced at the site of the proposal for which the application was made, a refund of not more than 50 percent of the shoreline fees paid may be granted by the administrator. This amount may be reduced where staff time, public notice and other costs exceed 50 percent of the fees paid.

F. No fees shall be collected from an agency of Whatcom County government.

23.60.080 Notice of application.
A. Upon receipt of a completed shoreline substantial development permit, shoreline variance, or shoreline conditional use permit application, the county shall issue a notice of application for a proposed land use action in the manner set forth in WCC 22.05.070.2.33.060 (Permit Review Procedures) notwithstanding the requirement for an open record public hearing, and to notify the applicant/proponent of his/her notice responsibility under that section.

B. The public comment period for a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit shall be 30 days following the date of notice of application. Public comments may be submitted at any time prior to the closing of the record of an open record predecision hearing or, if no open record public hearing is required, prior to the decision on the project permit.

C. The public hearing shall not be closed to the receipt of written comments prior to 30 days following the date of the notice.

D. Application for any approval or permit not requiring a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit shall be governed by the applicable notice requirement for that permit and shall not be subject to additional notice by this section. Any public comments submitted pursuant to applications for other approvals or permits shall be considered in review of compliance with standards, policies and regulations of this program.

EB. The rights of treaty tribes to resources within their usual and accustomed areas shall be accommodated through the notification and comment provisions of the permit review process. Tribal treaty rights may be addressed through specific permit conditions. Direct coordination between tribes and the applicant/proponent is encouraged.

23.60.090 Permit application review.
A. All shoreline permit applications, exemptions, or other approvals shall be subject to the provisions of this program that are in effect at the time of application.

B. To facilitate review of an application the decision maker shall consider any or all of the following:

1. The application and attached information;
2. The SEPA checklist, threshold determination, environmental impact statement, or other environmental studies and/or documentation;

3. Written comments from interested persons;

4. Information and recommendations from any public agency and from the administrator in cases where the administrator is not the decision maker;

5. Information or comment presented at a public hearing, if held, on the application; and

6. The policy and provisions of the Act and this program including the criteria enumerated in WCC 23.60.010, 23.60.030 and 23.60.040, as applicable.

C. In compliance with the provisions of Chapter 2.33 22.05 WCC the decision maker shall be responsible to process project permit applications for shoreline substantial development permits, shoreline variance and shoreline conditional use permits in a compliance with the provisions of WCC 22.05 timely manner.

D. The decision maker shall process project permit applications for shoreline statements of exemption shall be processed in accordance with the provisions of WCC 23.60.023(A) and Chapter 22.05 WCC.

E. Any application for a shoreline permit or approval that remains inactive for a period of 180 days shall expire and a new application and repayment of fees shall be required to reactivate the proposal; provided, that the administrator may grant a single 90-day extension for good cause. Delays such as those caused by public notice requirements, State Environmental Policy Act review, litigation directly related to the proposal, or changes in government regulations shall not be considered as part of the inactive period.

F. If a shoreline permit is denied, no reapplication for the same or essentially similar development may be made until one year from the date of denial.

23.60.100 Consolidated permit review.

A. Whenever an application for a project permit under the program requires a project permit or approval under another county permit authority, such as zoning or subdivision, the shoreline project permit application, time requirements and notice provisions for processing the shoreline permit shall apply, in addition to those of other regulatory programs.

B. The provisions of Chapter 2.33 22.05 WCC shall apply to the consolidated application, review and approval of applications that require an open record hearing. Any shoreline use or development that is subject to other approvals or permits that requires an open record hearing under another permit authority, such as zoning or subdivision, shall be subject to consolidated review and the decision maker designated for the open record hearing shall be the decision maker for the consolidated review.

23.60.110 State Environmental Policy Act (SEPA) compliance.
A. Whenever an application for shoreline substantial development permit, shoreline variance, shoreline conditional use permit, or statement of exemption is subject to the rules and regulations of SEPA (Chapter 43.21C RCW), the review requirements of SEPA, including time limitations, shall apply, where applicable.

B. Applications for shoreline permit(s) or approval(s) that are not categorically exempt under SEPA shall be subject to environmental review by the responsible official of Whatcom County pursuant to the State Environmental Policy Act (Chapter 197-11 WAC).

C. As part of SEPA review, the responsible official may require additional information regarding the proposed development in accordance with Chapter 197-11 WAC.

D. Failure of the applicant/proponent to submit sufficient information for a threshold determination to be made shall be grounds for the responsible official to determine the application incomplete.

23.60.120 Burden of proof.
Permit applicants/proponents have the burden of proving that the proposed development is consistent with the criteria set forth in the Act and this program.

23.60.130 Public hearings.
A. The administrator shall determine whether an application requires a public hearing pursuant to the criteria below no later than 15 days after the minimum public comment period provided by WCC 23.60.080. An open record public hearing shall be required for all of the following:

1. The proposal has a cost or market value in excess of $100,000 except for single-family residences, agriculture, commercial forestry and ecological restoration projects; or

2. The proposal would result in development of an area larger than five acres; or

3. The proposal is a new or expanded marina, pier, aquaculture structure, any building over 35 feet high, mine, dam, stream diversion, landfill; or

4. The administrator has reason to believe the proposal would be controversial based on public response to the notice of receipt of application and other information; or

5. The proposal is determined to have a significant adverse impact on the environment and an environmental impact statement is required in accordance with the State Environmental Policy Act; or

6. The proposal requires a variance and/or conditional use approval pursuant to this program; or

7. The use or development requires an open record public hearing for other Whatcom County approvals or permits.
B. An open record public hearing on shoreline permit applications shall be held in accordance with the provisions of Chapter 23.33 22.05 WCC, unless a continuance is granted pursuant to the rules and procedures of the hearing examiner or other hearing body and subject to time requirements for compliance with the State Environmental Policy Act.

C. Decisions and recommended decisions of the hearing examiner shall be rendered within 10 working days of the date the public hearing record is closed unless the applicant/proponent agrees to an extension of time.

D. Where the county council is the permit decision maker they shall meet to consider the hearing examiner’s recommendation within 21 days of receipt thereof, at a closed record proceeding, at which time it may approve or disapprove the application, or remand the matter to the hearing examiner with instructions.

E. Public hearing requirements for permit appeals shall be processed according to WCC 23.60.150.

23.60.140 Permit conditions.
In granting, revising, or extending a shoreline permit, the decision maker may attach such conditions, modifications, or restrictions thereto regarding the location, character, and other elements of the proposed development deemed necessary to assure that the development will be consistent with the policy and provisions of the Act and this program as well as the supplemental authority provided in Chapter 43.21C RCW as applicable. In cases involving unusual circumstances or uncertain effects, a condition may be imposed to require monitoring with future review or reevaluation to assure conformance with the Act and this program. If the monitoring plan is not implemented, the permittee may be found to be noncompliant and the permit may be rescinded in accordance with WCC 23.60.180.

23.60.150 Notice of decision, reconsideration and appeal.
A. A notice of decision for action on a shoreline substantial development permit, shoreline variance, or shoreline conditional use permit shall be provided to the applicant/proponent and any party of record in accordance with the review procedures of Chapter 23.33 22.05 WCC and at least 10 days prior to filing such decisions with the Department of Ecology pursuant to WAC 173-27-130. Decisions filed with the Department of Ecology shall contain the following information:

1. A copy of the complete application;

2. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation(s), applicable program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);

3. The final decision of the local government;

4. A completed permit data sheet (see Appendix A of this title); and
5. Where applicable, local government shall also file the applicable documents required by SEPA, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under Chapter 43.21C RCW.

6. When the project has been modified in the course of the local review process, plans or text shall be provided that clearly indicate the final approved plan.

B. Notice of decision for shoreline statements of exemption shall comply with WCC 23.60.023(E) and WCC 22.05.110(1).

C. This program shall only establish standing for parties of record for shoreline substantial development permits, shoreline variances, or shoreline conditional use permits. Standing as a party of record is not established by this program for exempt actions pursuant to WCC 23.60.022; provided, that in such cases standing may be established through an associated permit process that provides for public notice and provisions for parties of record.

D. The applicant/proponent or any party of record may request reconsideration of any final action by the decision maker within 10 days of notice of the decision. Such requests shall be filed on forms supplied by the county. Grounds for reconsideration must be based upon the content of the written decision. The decision maker is not required to provide a written response or modify his/her original decision. He/she may initiate such action as he/she deems appropriate. The procedure of reconsideration shall not preempt or extend the appeal period for a permit or affect the date of filing with the Department of Ecology, unless the applicant/proponent requests the abeyance of said permit appeal period in writing within 10 days of a final action.

E. Appeals to the shoreline hearings board of a decision on a shoreline substantial development permit, shoreline variance or shoreline conditional use permit may be filed by the applicant/proponent or any aggrieved party pursuant to RCW 90.58.180 within 21 days of filing the final decision by Whatcom County with the Department of Ecology.

F. Whatcom County shall consider an appeal of a decision on a shoreline substantial development permit, shoreline variance or shoreline conditional use only when the applicant/proponent waives his/her right to a single appeal to the shoreline hearings board. Such waivers shall be filed with the county in writing concurrent with a notice of appeal within 10 days of a final action. When an applicant/proponent has waived his/her right to a single appeal, such appeals shall be processed in accordance with the appeal procedures of subsection H of this section and shall be an open record hearing before the hearing examiner.

G. Any order, requirement or administrative permit decision, or determination by the administrator based on a provision of this program, except a shoreline substantial development permit, may be the subject of an appeal to the office of the hearing examiner by any aggrieved person. Such appeals shall be processed in accordance with the appeal procedures of subsection H of this section and shall be an open record hearing before the hearing examiner.
H. Appeal Procedures.

1. Appeals shall be filed on forms supplied by the county within 10 calendar days of the issuance of a substantial development permit, shoreline variance or shoreline conditional use permit and within 20 calendar days of any other action of the administrator being appealed.

2. A public hearing on the appeal shall be held within 45 working days following receipt of the application for appeal.

3. Legal notice of the public hearing shall be made by mailing notice of time, date, and location of the hearing to the appellant, any parties of record, the Washington Department of Ecology, and the administrator at least 15 days prior to the hearing.

4. A decision by the hearing examiner shall be mailed within 10 working days of the public hearing to all parties of record unless otherwise mutually agreed to by all parties to the appeal.

5. Any party of record may request a closed record review of the hearing examiner’s decision issued under subsection (H)(4) of this section by the county council. Such an appeal shall be filed with the county council on forms supplied by the county within 10 calendar days of the written decision. If appeal is made to the county council, notice of appeal shall be provided to all parties of record at least 15 days prior to consideration by the county council. The council shall meet to review the hearing examiner’s decision within 21 days of transmittal thereof, at which time it may approve or disapprove the application, or remand the matter to the hearing examiner.

6. The time period for appeal to the shoreline hearings board shall begin after the decision maker has filed the final county decision with the Department of Ecology.

23.60.160 Initiation of development.
A. Development pursuant to a shoreline substantial development permit, shoreline variance, or conditional use permit shall not begin and shall not be authorized until 21 days after the “date of filing” or until all review proceedings before the shoreline hearings board have terminated.

B. Date of Filing.

1. “Date of filing” of a substantial development permit is the date of actual receipt of the decision by the Department of Ecology.

2. The “date of filing” for a shoreline variance or shoreline conditional use permit shall mean the date the permit decision rendered by the Department of Ecology is transmitted by the department to the county and the applicant/proponent.

23.60.170 Revisions.
A. A revision is required whenever the applicant/proponent proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit and/or statement of exemption. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this program or the Act. Changes that are not substantive in effect do not require a revision.

B. An application for a revision to a shoreline permit shall be submitted to the administrator. The application shall include detailed plans and text describing the proposed changes. The county decision maker that approved the original permit may approve the request upon a finding that the proposed changes are within the scope and intent of the original approval, and are consistent with this program and the Act.

C. “Within the scope and intent of the original approval” means all of the following:

1. No additional over-water construction is involved except that a pier, dock or floating structure may be increased by 10 percent over that approved under the original approval;

2. Ground area coverage and/or height may be increased a maximum of 10 percent over that approved under the original approval; provided, that the revised approval does not authorize development to exceed the height, impervious surface, setback or any other requirements of this program except as authorized under a variance granted for the original development;

3. Additional or revised landscaping is consistent with any conditions attached to the original approval and with this program;

4. The use authorized pursuant to the original approval is not changed; and

5. The revision will not cause adverse environmental impacts beyond those originally authorized in the approval.

D. Revisions to shoreline permits and statements of exemption may be authorized after the original authorization has expired. Revisions made after the expiration of the original approval shall be limited to changes that are consistent with this program and that would not require a permit under this program. If the proposed change is a substantial development as defined by this program, then a new permit is required. The provisions of this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits or scope of the original approval.

E. A new permit shall be required if the proposed revision and any previously approved revisions in combination would constitute development beyond the scope and intent of the original approval as set forth in subsection C of this section.

F. Upon approval of a revision, the decision maker shall file a copy of the revised site plan and a detailed description of the authorized changes to the original permit with the Department of Ecology together with a final ruling and findings supporting
the decision based on the requirements of this section. In addition, the decision maker shall notify parties of record of the action.

G. If the proposed revision is to a development for which a shoreline conditional use or variance was issued, the decision maker shall submit the revision to the Department of Ecology for approval with conditions or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. Under the requirements of WAC 173-27-110(6), the Department shall render and transmit to the decision maker and the applicant/proponent its final decision within 15 days of the date of the Department’s receipt of the submittal from the decision maker. The decision maker shall notify parties on record of the Department’s final decision. Appeals of a decision of the Department shall be filed in accordance with the provisions of Chapter 461-08C WAC. (Ord. 2009-13 § 1 (Exh. 1)).

23.60.180 Rescission and modification.
A. Any shoreline permit granted pursuant to this program may be rescinded or modified upon a finding by the hearing examiner that the permittee or his/her successors in interest have not complied with conditions attached thereto. If the results of a monitoring plan show a development to be out of compliance with specific performance standards, such results may be the basis for findings of noncompliance.

B. The administrator shall initiate rescission or modification proceedings by issuing written notice of noncompliance to the permittee or his/her successors and notifying parties of record at the original address provided in application review files.

C. The hearing examiner shall hold a public hearing no sooner than 15 days following such issuance of notice, unless the applicant/proponent files notice of intent to comply and the administrator grants a specific schedule for compliance. If compliance is not achieved, the administrator shall schedule a public hearing before the hearing examiner. Upon considering written and oral testimony taken at the hearing, the hearing examiner shall make a decision in accordance with the above procedure for shoreline permits.

D. These provisions do not limit the administrator, the prosecuting attorney, the Department of Ecology or the Attorney General from administrative, civil, injunctive, declaratory or other remedies provided by law, or from abatement or other remedies.

23.60.190 Expiration.
A. The following time requirements shall apply to all substantial development permits and to any development authorized pursuant to a variance, conditional use permit, or statement of exemption:

1. Construction shall be commenced or, where no construction is involved, the use or activity shall be commenced within two years of the effective date of a shoreline permit or exemption or the permit shall expire; provided, that the hearing examiner or administrator, as appropriate, may authorize a single extension for a period of not more than one year based on a showing of good
cause if a request for extension has been filed with the hearing examiner or administrator as appropriate before the expiration date of the shoreline permit or exemption, and notice of the proposed extension is given to parties of record and the Department of Ecology.

2. Authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit or exemption; provided, that the hearing examiner or administrator, as appropriate, may authorize a single extension for a period of not more than one year based on a showing of good cause, if a request for extension has been filed with the hearing examiner or administrator, as appropriate, before the expiration date of the shoreline permit or exemption and notice of the proposed extension is given to parties of record and the Department of Ecology.

3. The effective date of a shoreline permit or exemption shall be the date of last action required on the shoreline permit or exemption and all other government permits and approvals that authorize the development to proceed, including administrative and legal actions on any such permit or approval. The applicant/proponent shall be responsible for informing the county of the pendency of other permit applications filed with agencies other than the county and of any related administrative and legal actions on any permit or approval. If no notice of the pendency of other permits or approvals is given to the county prior to the date of the last action by the county to grant county permits and approvals necessary to authorize the development to proceed, including administrative and legal actions of the county, and actions under other county development regulations, the date of the last action by the county shall be the effective date.

B. Notwithstanding the time limits established in subsections (A)(1) and (2) of this section, upon a finding of good cause based on the requirements and circumstances of the proposed project and consistent with the policies and provisions of this program and the Act, the hearing examiner or administrator as appropriate may set different time limits for a particular substantial development permit or exemption as part of the action to approve the permit or exemption. The hearing examiner may also set different time limits on specific conditional use permits or variances with the approval of the Department of Ecology. The different time limits may be longer or shorter than those established in subsections (A)(1) and (2) of this section but shall be appropriate to the shoreline development or use under review. “Good cause based on the requirements and circumstances of the proposed project” shall mean that the time limits established for the project are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted, and/or are necessary for the protection of shoreline resources.

C. When permit approval includes conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to the commencement of a nonstructural activity; provided, that different time limits for compliance may be specified in the conditions of approval as appropriate.
D. The hearing examiner or administrator as appropriate shall notify the Department of Ecology in writing of any change to the effective date of a permit, authorized by subsections A through C of this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by the sections of this program previously listed shall require a new permit application.

23.70.030 Hearing examiner.

The Whatcom County hearing examiner is hereby vested with the authority to conduct open record hearings and prepare a record thereof pursuant to WCC 2.11.210-.

A. Grant or deny shoreline permits requiring public hearings.

B. Grant or deny variances from this program.

C. Grant or deny conditional uses under this program.

D. For consolidated applications for permits for which the county council is designated as the decision maker, the hearing examiner shall have the authority to hold an open record public hearing and make a recommendation to the county council on shoreline permits as part of a consolidated review as provided in Chapter 2.33 WCC.

E. Decide on appeals of administrative decisions issued by the administrator of this program. (Ord. 2009-13 § 1 (Exh. 1); Ord. 2008-034 § 1 (Exh. 1)).
B. Notice and Timing of Appeal Hearing. After receipt of a notice of appeal, the
director shall transmit the notice of appeal, and the notice or decision appealed
from, to the hearing examiner. An appeal hearing shall be conducted on the record.
Written notice of the time and place of the hearing shall be given at least 10
fifteen calendar working days prior to the date of the hearing to each appealing
party, to the director whose notice, order or decision is being appealed, and to all
other interested persons who have requested in writing that they be so notified.

1. In the case of an appeal from a notice of contamination issued under
Chapter 24.13 WCC, the hearing shall be held not less than 20 days and not
more than 30 days after serving of the notice as required by RCW 64.44.030.

C. Conduct of Appeals. All appeals shall be conducted in accordance with Chapter
20-92 22.05 WCC, except for timeframes noted in WCC 24.07.090(A) and (B).

D. Combination of Appeal. Whenever possible, the appeal from the director’s
administrative notice, order or decision shall be combined with any other appeal
from enforcement actions relating to the same subject matter and falling within the
jurisdiction of the hearing examiner.
**CLEARANCES**

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<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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**TITLE OF DOCUMENT:**

Ordinance establishing Business and Commerce Advisory Committee

**ATTACHMENTS:**

SEPA review required? ( ) Yes ( ) NO
SEPA review completed? ( ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes ( ) NO
Requested Date:

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Ordinance establishing Whatcom County Code Chapter 2.126, creating the Whatcom County Business and Commerce Advisory Committee.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

5/8/2018: Introduced 6-0

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
ORDINANCE NO. _________

ESTABLISHING WHATCOM COUNTY CODE CHAPTER 2.126, CREATING THE WHATCOM COUNTY BUSINESS AND COMMERCE ADVISORY COMMITTEE

WHEREAS, Whatcom County has numerous advisory boards and commissions to advise the Council and the Executive on a great range of matters; and

WHEREAS, there is no board or commission with the express goal of providing business and industry perspective on regulations and policies; and

WHEREAS, Whatcom County is home to numerous businesses and industries that provide important jobs and contribute meaningfully to the community; and

WHEREAS, Whatcom County businesses have different needs to be successful in a wide variety of economic sectors ranging from individual professionals and service providers, small businesses, medium-sized businesses, and large businesses competing nationally and internationally; and

WHEREAS, Whatcom County seeks to be a place where new businesses are encouraged to start and existing businesses recognize the value of remaining and expanding, creating jobs, and increasing the resources available for all members of the community; and

WHEREAS, the actions of county government can have positive and negative effects on the overall business environment and on individual operations; and

WHEREAS, to ensure the appropriate balance between the interests of the community and the interests of businesses is met, it is critical that business and industry have a voice in policies and regulations that may impact them.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code 2.126 is hereby established, creating the Whatcom County Business and Commerce Committee as outlined in Exhibit A to this ordinance.

ADOPTED this ____ day of __________, 2018.

ATTEST: WHATCOM COUNTY COUNCIL

Dana Brown-Davis, Clerk of the Council WHATCOM COUNTY, WASHINGTON

Rud Browne, Council Chair WHATCOM COUNTY EXECUTIVE

APPROVED AS TO FORM: WHATCOM COUNTY, WASHINGTON

Civil Deputy Prosecutor Jack Louws, County Executive

( ) Approved ( ) Denied

Date Signed: __________________________
EXHIBIT A

CHAPTER 2.126
Business and Commerce Advisory Committee

Sections:
2.126.010 Established
2.126.020 Purpose
2.126.030 Function
2.126.040 Membership
2.126.050 Organization - Meetings

2.126.010 Established.
The Whatcom County Business and Commerce Advisory Committee is hereby established.

2.126.020 Purpose.
The committee will advise the Whatcom County Council on issues, including regulations and policies that could impact local businesses, industry, or economic development.

2.126.030 Function.
The committee will report directly to the County Council as necessary to carry out the following functions:

A. Review and provide recommendations on comprehensive plans, regulations, economic development efforts and on proposals which directly impact business and economic conditions in Whatcom County; and

B. Assist the county and provide recommendations on efforts to improve business conditions, environment and infrastructure; and

C. Assist and develop recommendations for comprehensive economic development efforts and other issues impacting business in Whatcom County.

D. Develop recommendations and strategies for ensuring the county applies a client-focused approach to supporting businesses with regulations, permitting, and planning.

2.126.040 Membership.
A. The committee shall be composed of 15 voting members serving four year terms.

B. The following designated officials:
   1. One member of the Whatcom County Council;
   2. City of Bellingham Mayor or designee
   3. Port of Bellingham Executive Director or designee; and
   4. One representative from the small cities, designated by the Small Cities Caucus.

C. The County Council shall appoint one member representing for-profit entities in each of the following industries:
   1. Internet technology;
   2. Manufacturing;
   3. Food processing;
   4. Recreation;
   5. Retail;
   6. Marine trades; and
   7. Commercial real estate.
D. The County Council shall also appoint:
   1. Two members representing for-profit business entities in any industry, including those listed in subsection C; and
   2. Two members representing the county’s institutions of higher education (Western Washington University, Whatcom Community College, The Northwest Indian College, and Bellingham Technical College).

E. No two appointed members may represent or be employed by the same company or organization.

F. The term of office for appointed members shall be four years; provided that the terms of those first appointed shall be staggered so that five will be appointed for two years and six will be appointed for four years.

2.126.050 Organization – Meetings.
A. Meetings of the committee shall be open and accessible to the public and shall be subject to the Open Public Meetings Act.

B. The committee shall determine its own meeting schedule but shall meet at least four times per year.

C. At every meeting, the committee will schedule an open session to take public comment on local business issues. Written records of meetings, resolutions, findings, and recommendations shall be kept and such records shall be public.

D. The committee shall adopt its own rules and procedures for the conduct of business.

E. The committee shall elect a chairperson from among its members who shall preside at its meetings.

F. The committee shall comply with Whatcom County Charter Section 4.20, Qualifications, and with Chapter 2.03 WCC, Boards and Commissions.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<th>CLEARANCES</th>
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<th>Date Received in Council Office</th>
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**TITLE OF DOCUMENT:**
Council direction on Resolution 2018-015 relating to the Cherry Point Urban Growth Area.

**ATTACHMENTS:**

**SEPA review required?** ( ) Yes ( X ) NO  
**SEPA review completed?** ( ) Yes ( X ) NO  

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

The Whatcom County Council approved Resolution 2018-015 on April 24, 2018. This Resolution, relating to major permits in the Cherry Point Urban Growth Area, states that “The Whatcom County Council will work with staff to develop the proposed Comprehensive Plan and development regulation amendments. The proposed amendments will be reviewed by the Council’s Committee of the Whole, which will provide for public comment.”

**COMMITTEE ACTION:**
5/8/2018: Held in Committee

**COUNCIL ACTION:**

**Related County Contract #:**  
**Related File Numbers:**  
**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
RESOLUTION NO. 2018-015

REQUESTING THE COUNTY EXECUTIVE DIRECT STAFF TO DRAFT LEGISLATION RELATING TO PROCESSING AND APPROVAL OF MAJOR PROJECT PERMITS IN THE CHERRY POINT URBAN GROWTH AREA

WHEREAS, on August 9, 2016, the Whatcom County Council adopted Ordinance 2016-031, an emergency ordinance imposing a sixty day moratorium on the filing, acceptance, and processing of new applications for conversion of land or water, new building or structure permits, or other County permits or authorizations in the Cherry Point Urban Growth Area for new or expanded facilities whose purpose is to facilitate the increased shipment of unrefined fossil fuels not to be processed or consumed at Cherry Point; and

WHEREAS, on September 27, 2016, March 21, 2017, and September 26, 2017, the Whatcom County Council adopted interim measures (Ordinance 2016-039, Ordinance 2017-011, and Ordinance 2017-049) prohibiting the filing, acceptance, and processing of new applications for conversion of land or water, new building or structure permits, or other County permits or authorizations in the Cherry Point Urban Growth Area for new or expanded facilities whose purpose is to facilitate the increased shipment of unrefined fossil fuels not to be processed or consumed at Cherry Point; and

WHEREAS, on February 27, 2018, Whatcom County Council extended the interim moratorium on the acceptance and processing of applications and permits for new or expanded facilities in the Cherry Point Urban Growth area the primary purpose of which would be the shipment of unrefined fossil fuels not to be processed at Cherry Point; and

WHEREAS, the interim moratoria are intended to provide time for the County to assess how to improve the acceptance and processing of applications and permits for new or expanded facilities in the Cherry Point Urban Growth to better protect public health, safety, transportation, and the environment; and

WHEREAS, the County Council previously adopted Title 20-Zoning of Whatcom County Code which regulates land use within unincorporated areas of Whatcom County; and

WHEREAS, the County Council adopted the Whatcom County Comprehensive Plan on May 20, 1997, which contains goals, objectives, and policies regarding land use compatibility and environmental considerations; and

WHEREAS, the Whatcom County Council recently updated the Whatcom County Comprehensive Plan as required by Revised Code of Washington (RCW) 36.70A; and

WHEREAS, during the Comprehensive Plan review process the Whatcom County Council received many individual public comments on fossil fuel transshipment, transport, and transfer from Cherry Point related to the protection of the safety and health of Whatcom County’s environment, economy, and residents; and
WHEREAS, the County recognizes that the existing refineries have for decades been
significant shippers of refined fossil fuels such as jet fuel and calcined coke used in
manufacture of aluminum while providing substantial local employment; and

WHEREAS, multiple trains carrying crude oil from the Bakken formation moving
through the United States and Canada have derailed and exploded causing damage to
property and the environment; and

WHEREAS, on July 6, 2013, a single derailment in Quebec caused 47 fatalities and
destroyed half of the downtown of Lac-Mégantic, leaving a town heavily contaminated with
benzene, which are major reasons that local zoning regulations must be improved; and

WHEREAS, a unit train carrying Bakken crude traveling through Mosier, Oregon, on
June 3, 2016, derailed and exploded causing damage to property and to the Columbia River,
demonstrating that recently adopted state and federal policies and corporate investment
intended to reduce the risks associated with oil by rail have proven insufficient to protect
communities along the rail corridor; and

WHEREAS, the Washington State Department of Natural Resources has designated
waters adjacent to the Cherry Point Urban Growth Area as an aquatic reserve to ensure
long-term protection of this unique aquatic environment; and

WHEREAS, the United States recently lifted a ban on the export of crude oil from the
country, increasing pressure on deep water ports such as Cherry Point to develop to
increase the amount of fuels transported through Whatcom County that arrive at Cherry
Point; and

WHEREAS, existing refineries at Cherry Point have recently increased their ability to
accept crude oil by rail by constructing new rail offloading facilities to serve the refineries; and

WHEREAS, existing and proposed pipeline facilities have increased, or proposed to
increase, their capacity to move crude oil, diluted bitumen, and natural gas to Cherry Point; and

WHEREAS, expansion of existing facilities for purposes receiving and shipping fossil
fuels into and out of Cherry Point will increase the transport of dangerous fuels through our
community and increase the risk of possible harmful emissions, train derailment, spills,
explosions, and the fallout of these will pose serious threats to the community’s public
health and safety, and to the local environment; and

WHEREAS, pursuant to the Washington State Constitution, the general police
powers granted to counties empower and authorize Whatcom County to adopt land use
controls to provide for the regulation of land uses within the County and to provide that
such uses shall be consistent with applicable law; and

WHEREAS, in 2017, the Whatcom County Council entered into a contract with
Cascadia Law Group for assistance in examining existing County laws and developing
recommendations for recommendations about how the County may further limit the
negative impacts on public safety, transportation, the economy, and environment from
crude oil, coal, liquefied petroleum gases, natural gas, and other fuels transported through
Whatcom County to Cherry Point and shipped from the Cherry Point UGA above levels in
existence as of March 1, 2017; and
WHEREAS, in 2018, a Cascadia Law Group study provided guidance on the County's legal rights, responsibilities, and limitations regarding interpretation and application of project evaluation under Section 20.88.130 (Major Projects Permits) of the Whatcom County Code; and

WHEREAS, the above study will assist in developing proposed Comprehensive Plan amendments and associated code and rule amendments for Council consideration, and

WHEREAS, Whatcom County Council finds the public interest is best protected by a permitting process for major projects at Cherry Point that provides the County clear authority for requiring mitigation of project impacts on the community and the environment, and that provides clear requirements that project proponents assume financial responsibility for potentially hazardous activities that present risks to the community; and

WHEREAS, the Cascadia study determined that zoning codes of other local jurisdictions provide examples of discretionary decision-making criteria; and

WHEREAS, in RCW 90.58.020 the legislature found that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern relating to their utilization, protection, restoration, and preservation. In addition it found that increasing pressures of additional uses are being placed on the shorelines, and that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest, and that local governments play a role in preventing harm to the state's shorelines; and

WHEREAS, WAC 173-27-160 states that conditional use permits provide local governments flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020, and that special conditions may be attached to the permit by local government to prevent undesirable effects of the proposed use; and

WHEREAS, WAC 197-11-660 states that proposals may be conditioned or denied under the State Environmental Protection Act to mitigate the environmental impact, subject to limitations, and that proposal can be denied if they are likely to result in significant adverse environmental impacts that cannot be mitigated.

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the Council requests the County Executive have Planning staff draft code amendments to the County’s Major Project Permit Review Process, and other related zoning code, that strengthen the discretionary authority of County staff, and the County Council, with respect to processing and approving major project permits, and with respect to mitigating the impacts of proposed major projects, and with respect to mitigating changes in existing uses, in the Cherry Point UGA.

BE IT FURTHER RESOLVED that Whatcom County Council requests proposals for code and SMP amendments that protect public health, safety, and the environment, and that provide clear discretionary standards for accepting and rejecting permits. These include:

1) Require Conditional Use Permits. Require conditional land use permits, and conditional shoreline permits (per WAC 173-27-160), for certain heavy industry uses, such as new petroleum tank farms, new fossil fuel distribution facilities, additional piers, new on-site rail yards, new facilities that transfer fuel from rail cars, new rail car storage facilities, new coal storage facilities, new coal transfer facilities, and new facilities that transfer fuels
from permitted or proposed facilities across existing or proposed piers. The purpose of such conditional use permits is:

   a) To provide a process that allows flexibility in the application or regulations, consistent with RCW 90.58.020, and to allow that conditions be attached by the County to prevent undesirable effects of the propose use and to assure consistency of the project with the goals in the County Comprehensive Plan, County SMP, and with treaty rights, policies of Washington State DNR, the Army Corps of Engineers, and the Cherry Point Aquatic Reserve Plan, and

   b) To ensure the project will cause no significant adverse effects to the shoreline, to the environment, to air emissions, to traffic patterns, and that, broadly, the public suffers no substantial detrimental effect of the cumulative impact of the proposed project, and

   c) To ensure that any use must demonstrate that it is adequately served by essential public facilities such as highways, roads, police and fire protection, drainage facilities, water, sewer, bridges required for rail crossings, and waste disposal, and that the agents proposing the use shall be able to adequately provide such services.

   d) To ensure the proposed facility will not create excessive additional requirements, at public cost, for public facilities and services and that the applicant provide mitigation for added public costs, including investment into emergency response capacity, and that commit the applicant to compensate Whatcom County and associated jurisdictions for costs associated with emergency responses, clean-up, mitigation, and such events that are associated with transporting materials, by the applicant and by third parties, to and from the permitted facility.

2) **Require Master Site Planning** provisions for major project permits. This would include:

   a) requirements that applicants submit a fee (up front or in increments) covering the County's EIS review costs;

   b) requiring a Development Agreement that obligates the developer to pay costs (given a rational nexus) of all traffic, public safety, and environmental impact mitigation identified in the SEPA review; and identified in the discretionary project review by staff and County Council, should a Master Site Plan or conditional use be approved;

   c) requiring mitigating conditions proportional with the impact of the EIS;

   d) amending code to give the Planning Department and County Council the discretion to require a bond or insurance policy (or combination of) to ensure that all development commitments for transportation mitigation, public safety mitigation, environmental mitigation, and other mitigation are followed through to completion and that safety hazards to the community are insured against.

3) **Review and revise SEPA policy.** Review, and if needed to accomplish code changes to advance the goals of conditional use and enhanced discretionary authority of the county staff and County Council. SEPA provides that a project may be denied after an EIS is completed where it is decided that adverse impacts cannot be mitigated. Code and/or SMP and / or Comp. Plan language must provide a clear basis for accepting proposals with conditional requirements, and a clear basis for denial.
4) **Review and Revise Provisions for Change of Use and Occupancy.** Changes in use of existing facilities should be consistent with current code, and with code revisions requested above. Changes in use or occupancy should not result in a substantive functional change in the initial permitted use of an existing facility without being subject to discretionary authority and conditional requirements per, points 1, 2 & 3 as listed above. Code should allow staff approval of changes or occupancy or use where new uses remain consistent with current and with code adopted per this resolution. Code should also provide for a clear obligation to review and properly address, and mitigate, impacts of changes in use or occupancy of existing facilities.

**BE IT FURTHER RESOLVED** that:

- The Whatcom County Council will work with staff to develop the proposed Comprehensive Plan and development regulation amendments. The proposed amendments will be reviewed by the Council’s Committee of the Whole, which will provide for public comment.

- The proposed amendments will undergo SEPA review.

- The Whatcom County Planning Commission will hold a town hall meeting and a public hearing prior to issuing recommendations on the proposed amendments.

- The Whatcom County Council will hold a public hearing prior to adopting an ordinance relating to the amendments.

**APPROVED** the 14th day of April, 2018.

**ATTEST**

Dana Brown Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL

WHATCOM COUNTY, WASHINGTON

Rud Browne, Council Chair

APPROVED AS TO FORM:

[Signature]

Karen D. Frakes

Civil Deputy Prosecutor
An Ordinance Regarding Establishment of Speed Limits on certain roads in the Birch Bay area.

To comply with RCW 46.61.415, at the direction of the County Council, it is found necessary and expedient to modify the speed limits on certain roads in the Birch Bay area.

4/24/2018: Introduced 6-0, Byrd absent
5/8/2018: Held in Council, public hearing scheduled in two weeks

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at www.co.whatcom.wa.us/council.
Memorandum

To: The Honorable Jack Louws, County Executive, and Honorable Members of the Whatcom County Council

Through: Jon Hutchings, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director

Date: April 11, 2018

Re: Ordinance Regarding Designation of Speed Limits for Certain Birch Bay Area Roads as 25 mph.

Requested Action:
Adoption of an ordinance to designate the speed limit on certain Birch Bay area roads as 25 mph.

Background and Purpose:
The Birch Bay Chamber of Commerce has requested to designate Birch Bay Drive and all 25 mph roads leading to, and contiguous with, Birch Bay Drive as a golf cart zone per RCW 46.08.175. Several existing roads within this proposed zone are commonly understood to be 25 mph although they do not have an ordinance designating them as such. (See attached maps)

Additional Information:
RCW 46.08.175 requires that a roadway designated as a golf cart zone have a posted speed limit of 25 mph or less.

Per Whatcom County Ordinance 87-27, all County roads are 35 mph unless otherwise designated.
PROPOSED BY: Public Works - Engineering
INTRODUCTION DATE: 2/24/2018

ORDINANCE NO.
ESTABLISHMENT OF 25 MPH SPEED LIMIT
ON CERTAIN BIRCH BAY AREA ROADS

WHEREAS, the Whatcom County Council is authorized under RCW 46.61.415 to establish speed limits on certain County roads; and

WHEREAS, the Birch Bay Chamber of Commerce has requested to designate Birch Bay Drive and all 25 mph roads that lead to, and are contiguous with, Birch Bay Drive as a Golf Cart Zone per RCW 46.08.175; and

WHEREAS, RCW 46.08.175 requires that roadways designated as golf cart zones must have a posted speed limit of 25 miles per hour or less;

NOW, THEREFORE, BE IT ORDAINED that the speed limits be established as follows:

1. 25 mph on Birch Point Loop
2. 25 mph on Bay road, from 500 feet East of Jackson road to Halibut Drive.
3. 25 mph on all roads within the plat of Maple Crest 2nd Addition, Section 24, Township 40 North, Range 1 West, W.M.
4. 25 mph on all roads within the plat of First Addition to Maple Crest, Section 24, Township 40 North, Range 1 West, W.M.
5. 25 mph on all roads within the plat of Maple Crest 3rd Addition, Section 24, Township 40 North, Range 1 West, W.M.
6. 25 mph on all roads within the plat of Bernard, Beattys plat of 'Maple Crest', Section 24, Township 40 North, Range 1 West, W.M.
7. 25 mph on all roads within the plat of Cottonwood Beach, Section 24, Township 40 North, Range 1 West, W.M.
8. 25 mph on all roads within the plat of Cottonwood Beach Park, Section 24, Township 40 North, Range 1 West, W.M.
9. 25 mph on all roads within the plat of Morgan Cottonwood Beach, Section 24, Township 40 North, Range 1 West, W.M.
10. 25 mph on all roads within the plat of Forsberg plat, Section 24, Township 40 North, Range 1 West, W.M.
11. 25 mph on all roads within the plat of Gordon Addition Morgan Cottonwood Beach Plat, Section 24, Township 40 North, Range 1 West, W.M.
12. 25 mph on all roads within the plat of Birch Bay West End Estates, Section 24, Township 40 North, Range 1 West, W.M.
13. 25 mph on all roads within the plat of Birch Bay West End Estates Addition No. 1, Section 24, Township 40 North, Range 1 West, W.M.
14. 25 mph on all roads within the plat of Birch Bay Park, Section 36, Township 40 North, Range 1 West, W.M.
15. 25 mph on all roads within the plat of Bay View Terrace Amended, Section 36, Township 40 North, Range 1 West, W.M.
16. 25 mph on all roads within the plat of Parkland, Section 31, Township 40 North, Range 1 East, W.M.
17. 25 mph on all roads within the plat of Birch Bay Park First Addition, Section 31, Township 40 North, Range 1 East, W.M.
18. 25 mph on all roads within the plat of First Addition to Whispering Pines, Section 31, Township 40 North, Range 1 East, W.M.
19. 25 mph on all roads within the plat of Whispering Pines, Section 31, Township 40 North, Range 1 East, W.M.
20. 25 mph on all roads within the plat of Malibu Estates, Section 2, Township 39 North, Range 1 West, W.M.
21. 25 mph on all roads within the plat of Woodhaven, Section 2, Township 39 North, Range 1 West, W.M.

BE IT FURTHER ORDAINED that the County Engineer is hereby directed to post the appropriate signs and that the Whatcom County Sheriff and the Washington State Patrol be notified by a copy of this ordinance.

Provisions of this ordinance are hereby added to Whatcom County Code, Section 10.04.

ADOPTED this _____ day of ______, 2018.

ATTEST: WHATCOM COUNTY COUNCIL
Dana Brown-Davis, Council Clerk WHATCOM COUNTY, WASHINGTON
Rud Browne, Council Chair

APPROVED AS TO FORM: ( ) Approved ( ) Denied
Civil Deputy Prosecutor
Jack Louws, Executive

Date:
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**

*An Ordinance creating a “golf cart zone” on certain roads in the Birch Bay area.*

**ATTACHMENTS:**

1. Memorandum to County Executive and County Council
2. Golf Cart Zone Maps A-D
3. RCW 46.08.175 & 46.04.1945
4. Ordinance

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<th>( ) Yes ( X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( X ) Yes ( ) NO</th>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

*Designation of certain roads in the Birch Bay area, as a “golf cart zone” as defined in RCW 46.08.175*

**COMMITTEE ACTION:**

4/24/2018: Discussed

**COUNCIL ACTION:**

4/24/2018: Introduced 6-0, Byrd absent
5/8/2018: Held in Council, public hearing held open for two weeks

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
Memorandum

To: The Honorable Jack Louws, Whatcom County Executive and The Honorable Members of the Whatcom County Council

Through: Jon Hutchings, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director

Date: April 11, 2018

Re: Ordinance creating a “Golf Cart Zone” on certain roads in the Birch Bay area

Requested Action
At the request of the Whatcom County Council Public Works Committee, the Public Works Department respectfully submits the attached ordinance to create a “Golf Cart Zone” on certain roads in the Birch Bay area.

Background and Purpose
The Whatcom County Council Public Works Committee met on 11/21/2017 to discuss the creation of a golf cart zone in Birch Bay. The Birch Bay Chamber of Commerce President, Mr. Billy Brown, spoke in favor of the creation of a golf cart zone. The Committee directed the Public Works Department to coordinate with the Whatcom County Sheriff to develop an ordinance for the creation of a golf cart zone in Birch Bay.

This proposed “Golf Cart Zone” will include Birch Bay Drive and All County Roads posted 25 mph or less, that lead to and are contiguous with, Birch Bay Drive. (See attached maps)

Information
Creation of golf cart zones is allowed per RCW 46.08.175 while “golf carts” are defined under RCW 46.04.1945, see attached. RCW 46.08.175 requires that a roadway designated as a “Golf Cart Zone” have a posted speed limit of 25 mph or less.

Several existing roads within the proposed “Golf Cart Zone” are commonly understood to be 25 mph although they do not have an ordinance designating these as such. An ordinance to officially designate these roads as 25 mph must be approved prior to the adoption of this “Golf Cart Zone” ordinance.

Please contact Joe Rutan at extension 6219 with any questions regarding this ordinance.
PROPOSED BY: Public Works - Engineering

INTRODUCTION DATE: 4/24/2018

ORDINANCE NO._______

CREATING A "GOLF CART ZONE" ON CERTAIN ROADS IN THE BIRCH BAY AREA

WHEREAS, Birch Bay area residents have requested to operate golf carts in the Birch Bay area; and

WHEREAS, RCW 46.08.175 allows for creation of golf cart zones; and

WHEREAS, the Birch Bay Chamber of Commerce supports the creation of a golf cart zone in the Birch Bay area; and

WHEREAS, the speed limit on all the roads in the proposed Golf Cart Zone are 25 mph or less; and

WHEREAS, operators of golf carts shall be licensed motor vehicle operators as required by RCW 46.20.001.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a Golf Cart Zone is hereby on Birch Bay Drive and all county roads posted 25 mph or less that lead to, and are contiguous with, Birch Bay Drive;

BE IT FURTHER ORDAINED that the County Engineer is hereby directed to install the appropriate signs; and

BE IT FURTHER ORDAINED that the Sheriff’s Department be provided a copy of this ordinance.

ADOPTED this ___ day of ____________, 2018.

ATTEST:

Dana Brown-Davis, Council Clerk

Rud Browne, Council Chair

APPROVED AS TO FORM:

( ) Approved ( ) Denied

Civil Deputy Prosecutor

Jack Louws, Executive

Date: ____________________________
RCW 46.08.175

Golf cart zones.

(1) The legislative authority of a city or county may by ordinance or resolution create a golf cart zone, for the purposes of permitting the incidental operation of golf carts, as defined in RCW 46.04.1945, upon a street or highway of this state having a speed limit of twenty-five miles per hour or less.

(2) Every person operating a golf cart as authorized under this section is granted all rights and is subject to all duties applicable to the driver of a vehicle under chapter 46.61 RCW.

(3) Every person operating a golf cart as authorized under this section must be at least sixteen years of age and must have completed a driver education course or have previous experience driving as a licensed driver.

(4) A person who has a revoked license under RCW 46.20.285 may not operate a golf cart as authorized under this section.

(5) The legislative authority of a city or county may prohibit any person from operating a golf cart as authorized under this section at any time from a half hour after sunset to a half hour before sunrise.

(6) The legislative authority of a city or county may require a decal or other identifying device to be displayed on golf carts authorized on the streets and highways of this state under this section. The city or county may charge a fee for the decal or other identifying device.

(7) The legislative authority of a city or county may prohibit the operation of golf carts in designated bicycle lanes that are within a golf cart zone.

(8) Golf carts must be equipped with reflectors, seat belts, and rearview mirrors when operated upon streets and highways as authorized under this section.

(9) A city or county that creates a golf cart zone under this section must clearly identify the zone by placing signage at the beginning and end of the golf cart zone on a street or road that is part of the golf cart zone. The signage must be in compliance with the department of transportation's manual on uniform traffic control devices for streets and highways.

(10) Accidents that involve golf carts operated upon streets and highways as authorized under this section must be recorded and tracked in compliance with chapter 46.52 RCW. The accident report must indicate that a golf cart operating within a golf cart zone is involved in the accident.

[2010 c 217 § 4.]

RCW 46.04.1945

Golf cart.

"Golf cart" means a gas-powered or electric-powered four-wheeled vehicle originally designed and manufactured for operation on a golf course for sporting purposes and has a speed attainable in one mile of not more than twenty miles per hour. A golf cart is not a nonhighway vehicle or off-road vehicle as defined in RCW 46.04.365.

[2011 c 171 § 12; 2010 c 217 § 3.]

NOTES:

Ord amend WCC 15.04 Building Codes, regarding fee for appeals to Council

This ordinance amends WCC to add section 15.04.060 to authorize an appeal fee for appeals of decisions of the building official, fire code official, or the director of planning and development services on mitigation or revision of the penalty to the County Council.

5/8/2018: Introduced 6-0
April 25, 2018

TO: Jack Louws, County Executive

FROM: Marina Engels, Deputy Clerk of the Council

SUBJECT: Ordinance amending WCC 15.04

Recently an appeal was filed of a decision regarding the partial remission of a fine imposed by Planning and Development Services for violation of the Uniform Building Code. During the processing of the appeal to the County Council we became aware that the fee established by Ordinance 2008-037, adopted September 9, 2008, had somehow been removed from the Whatcom County Code. The fee is still authorized in the Unified Fee Schedule (#1220). We wish to re-authorize the appeal fee.

The only difference from this ordinance and the 2008 version is that language regarding refunding the fee if the appellant prevails in the appeal has been added.

We would like to introduce the ordinance at the May 8, 2018, meeting and schedule a public hearing on May 22.

Thank you.
ORDINANCE NO.  

AMENDING WHATCOM COUNTY CODE 15.04, BUILDING CODES, REGARDING FEE FOR APPEALS TO COUNTY COUNCIL

WHEREAS, Whatcom County Code (WCC) 15.04.050(F)(1) states that any person, firm or corporation violating any of the provisions of chapter 15.04 or the codes adopted by reference by that chapter shall be deemed guilty of a civil offense; and

WHEREAS, the penalty provided by WCC 15.04.050(F)(1) shall be imposed by a notice in writing from the building official or the fire code official or the director of planning and development services, by certified service, to either the person, firm or corporation incurring the penalty; and

WHEREAS, the notice shall include the amount of the penalty imposed and shall describe the violation with reasonable particularity in ordering the act(s) constituting the violation(s) to cease and desist or, in appropriate cases, requiring necessary corrective action to be taken within a specific and reasonable time; and

WHEREAS, WCC 15.04.050(F)(2) states that within 30 days after the notice is received, the person incurring the penalty may apply in writing to the building official for remission or mitigation of such penalty; and

WHEREAS, upon receipt of the application, the department may remit or mitigate the penalty upon whatever terms the department deems proper; and

WHEREAS, WCC 15.040.050(F)(2) establishes a process to appeal final decisions of the building official, fire code official, or the director of planning and
development services, on mitigation or revision of the penalty to the county
council; and

WHEREAS, the Unified Fee Schedule authorizes a fee for appeals to the county council.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that
Whatcom County Code Chapter 15.04 is hereby amended as shown in Exhibit A to
this ordinance.

ADOPTED this ___ day of ________, 2018.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor

☐ Approved    ☐ Denied

Jack Louws, County Executive
EXHIBIT A

CHAPTER 15.04
BUILDING CODES

15.04.060 Fee

A fee, as established in the Unified Fee Schedule, shall be paid to the county council office upon filing of an appeal authorized by Whatcom County Code 15.04.050(F)(2). This fee shall not apply to appeals initiated by a county department.

If an appellant prevails in an appeal of final decisions of the building official, fire code official, or the director of planning and development services, on mitigation or revision of the penalty to the county council, the appellant’s appeal fees shall be refunded.
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### TITLE OF DOCUMENT:

Appt of 1 Councilmember to serve on Lk Whatcom Stormwater Utility Adv Committee

### ATTACHMENTS:

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<th>( ) Yes</th>
<th>( ) NO</th>
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### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Appt of one Councilmember to serve on Lake Whatcom Stormwater Utility Advisory Committee

### COMMITTEE ACTION:

### COUNCIL ACTION:

### Related County Contract #:

### Related File Numbers:

### Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council,
Committee Established.
The Lake Whatcom Stormwater Utility Advisory Committee is hereby established.

Purpose.
The committee will represent rate payers in the Lake Whatcom Stormwater Utility Service Area and advise Whatcom County Public Works staff and the Whatcom County Council on recommended rate structure options and a funding mechanism.

Qualifications.
To qualify for County Council appointment to fill any vacancy on a board, committee, or commission, a person shall be a qualified registered voter and be a member or employee of the agency or group he or she is appointed to represent. Lake Whatcom Stormwater Utility Advisory Committee voting members must maintain a primary residence within the service area.

Membership.
The advisory committee shall consist of five voting members as follows:
A. Four members of the committee will be geographically representative of a broad spectrum of stakeholders from within the Lake Whatcom Stormwater Utility Service Area.
B. One member of the committee will represent the Sudden Valley Community Association.

All voting members of the advisory committee shall be appointed by the Whatcom County Council. The advisory committee shall also include a non-voting representative of the Whatcom County Council.

Term of Office.
The term of office for all committee members will last until the Lake Whatcom Stormwater Utility rate structure is established.

Organization – Meetings.
A. Open Public Meetings. Advisory Committee meetings shall be open to the public and shall be subject to the Washington State Open Public Meetings Act, Chapter 42.30 RCW.
B. Quorum. Three members of the advisory committee shall constitute a quorum for the transaction of business.
C. Meeting schedule. The committee will generally meet on a monthly basis at a location to be determined until a recommendation from the committee is forwarded to the County Council.
D. Meeting Notes. Minutes of the meetings will be prepared by Whatcom County Public Works Department staff.
### TITLE OF DOCUMENT:
Res amending Res 2017-045, to revise the schedule of council mtg dates for 2018

### ATTACHMENTS:

### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Resolution amending Resolution 2017-045, to revise the schedule of council meeting dates for 2018

### COMMITTEE ACTION:

### COUNCIL ACTION:

### Related County Contract #:

### Related File Numbers:

### Ordinance or Resolution Number:

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Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
RESOLUTION NO. ________

AMENDING RESOLUTION 2017-045 TO REVISE THE SCHEDULE OF COUNCIL MEETING DATES FOR 2018

WHEREAS, the Whatcom County Council has set every other Tuesday as its regular meeting schedule; and

WHEREAS, it is the Council’s policy to plan breaks in August and December and avoid scheduling meetings on specific dates during the year, including Election Day; and

WHEREAS, it has been brought to the Council’s attention that the currently scheduled August 7, 2018, meeting date falls on Primary Election Day.

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that Resolution 2017-045 is hereby amended as to move the August meeting date from Tuesday, August 7, to Wednesday, August 8, as indicated below:

January 16 and 30
February 13 and 27
March 13 and 27
April 10 and 24
May 8 and 22
June 5 and 19
July 10 and 24
August 7, August 8 (Wednesday)
September 11 and 25
October 9 and 23
November 7 (Wednesday) and 20
December 4

BE IT FURTHER RESOLVED that when members of the Council sit in an administrative or legislative capacity in situations such as, but not limited to, supervisors of special districts or members of the county health board, all business in these capacities shall be treated as regular items of business during council meetings and the council’s agenda shall include a notation for any item being considered in one of more of these other capacities.

APPROVED this ________ day of ____________, 2018.

ATTEST: ________________________________

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________

Dana Brown-Davis, Clerk of the Council

______________________________

Rud Browne, Council Chair

APPROVED AS TO FORM:

______________________________

Civil Deputy Prosecutor
**WHATCOM COUNTY COUNCIL AGENDA BILL**  

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**TITLE OF DOCUMENT:**  
Appointment to Whatcom County Planning Commission - Applicant: Tony Freeland

**ATTACHMENTS:**  
Application

**SEPA review required?**  
( ) Yes  ( ) NO  
**SEPA review completed?**  
( ) Yes  ( ) NO  
**Should Clerk schedule a hearing?**  
( ) Yes  ( X ) NO  
**Requested Date:**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**  
(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Applicant to fill 1 Vacancy, Partial term ending 1/31/2021  
Applicant: Tony Freeland.  
Applicants must be a resident of District 1. The Planning Commission shall assist the Planning & Development Services Department in carrying out its duties, including assistance in the preparation and execution the comprehensive plan and recommendations to the department for the adoption of official controls and/or amendments. The Commission shall conduct hearings as required under RCW 36.70, and shall make findings and conclusions that shall be transmitted to the Planning and Development Services Department and County Council.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

4/24/2018: Introduced 6-0, Byrd absent  
5/8/2018: Held in Council for two weeks

**Related County Contract #:**  
**Related File Numbers:**  
**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Applicants to the Planning Commission – District 1 Vacancy

Tony Freeland
Kimberley Lund
NaDean Hanson

From: noreply@civicplus.com
Sent: Monday, April 16, 2018 10:15 AM
To: Ben Glassett; Jill Nixon; Suzanne Mildner; Kristi Felbinger; Dana Brown-Davis; Executive; NaDean Hanson
Subject: Online Form Submittal: Board and Commission Application

Board and Commission Application

Step 1

Application for Appointment to Whatcom County Boards and Commissions

Public Statement
THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the information provided will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.

First Name  Tony
Last Name  Freeland
Date  4/16/2018
Street Address  1403 Harris Avenue
City  Bellingham
Zip  98225
Do you live in & are you registered to vote in Whatcom County?  Yes
Do you have a different mailing address?  Field not completed.
Primary Telephone  360-739-1589
Secondary Telephone  Field not completed.
Email Address  tfreeland@freelandengineering.com

Step 2

366
1. Name of Board or Committee: Planning Commission

2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? Yes

3. Which Council district do you live in? District 1

4. Are you a US citizen? Yes

5. Are you registered to vote in Whatcom County? Yes

6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county? Yes

7. Have you ever been a member of this Board/Commission? No

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? Yes

If yes, please explain: Freeland & Associates, Inc. has provided consulting engineering services to Whatcom County as a sub-consultant to architects. The firm does not directly contract with Whatcom County.

You may attach a resume or detailed summary of experience, qualifications, & interest in response to the following questions: Field not completed.

9. Please describe your occupation (or former): Professional Civil Engineer Bachelor of Science, Civil Engineering, University of Tennessee, with Honors Owner of
Consulting Engineering Company in Whatcom County Employ 10 professionals Former Commissioner of Water District No. 10 President of Whatcom County Building Services Appeals Board Former Trustee of American Water Works Association Chapter Former President of American Society of Civil Engineers Active with Brigid Collins and Domestic Violence and Sexual Assault Services

10. Please describe why you're interested in serving on this board or commission

My professional background with community planning and technical expertise on land use issues will be an asset to the Commission. My views are balanced and I'm not associated with any political community organizations nor bring an agenda to the Commission.

References (please include daytime telephone number):
Jim Ackerman, Mayor of Nooksack (360) 961-2375
John Mutchler, Mayor of Ferndale (360) 685-2350
Michael Jones, Planning Director of Blaine (360) 332-8311 Ext. 3317
Rollin Harper, Planning Director of Everson (360) 733-6033
Steve Sundin, City of Bellingham Planner (360) 778-8359
Ron Cowdan, Assistant Superintendent of Bellingham School District (360) 676-6531

Signature of applicant: Tony Freeland
Place Signed / Submitted: Bellingham, Washington

(Section Break)

Email not displaying correctly? View it in your browser.
Board and Commission Application

**Step 1**

Application for Appointment to Whatcom County Boards and Commissions

Public Statement

*THIS IS A PUBLIC DOCUMENT:* As a candidate for a public board or commission, the information provided will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.

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<th>First Name</th>
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<td>Lund</td>
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<tr>
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<tr>
<td>Street Address</td>
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<tr>
<td>Zip</td>
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<tr>
<td>Email Address</td>
<td><a href="mailto:kimilund@hotmail.com">kimilund@hotmail.com</a></td>
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**Step 2**
1. Name of Board or Committee | Planning Commission

2. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? | Yes

3. Which Council district do you live in? | District 1

4. Are you a US citizen? | Yes

5. Are you registered to vote in Whatcom County? | Yes

6. Have you declared candidacy (as defined by RCW 42.17A.055) for a paid elected office in any jurisdiction within the county? | No

7. Have you ever been a member of this Board/Commission? | No

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? | Yes

   If yes, please explain: My husband and I are minority partners in the Heliotrope Hotel - a small, independently owned boutique hotel close to downtown Bellingham.

You may attach a resume or detailed summary of experience, qualifications, & interest in response to the following questions

9. Please describe your occupation (or former occupation if retired), | See my attached resume.
qualifications, professional and/or community activities, and education

10. Please describe why you're interested in serving on this board or commission

Whatcom County has been a fantastic place for my family to call home for three generations. There is no other place that I would rather be raising my family. I feel that serving on the Planning Commission is one way to show gratitude for my community while helping preserve a legacy for Whatcom County as wonderful place to work and recreate. If selected, this commission would be an opportunity to better understand the complex issues we collectively face while deepening my civic engagement.

References (please include daytime telephone number):

Dr. Greg Baker, Superintendent of Bellingham Public Schools | (360) 678-6501
Rachel Meyers, Program Manager at Whatcom Community Foundation | (360) 671-6463

Signature of applicant: Kimberley Lund

Place Signed / Submitted: Bellingham, WA

Email not displaying correctly? View it in your browser.
KIMBERLEY LUND

ANALYSIS
DESIGN
DEVELOPMENT

PROFILE

50%

creative
analytical

50%

CONTACT ME

Email Address:
kmmlund@hotmail.com

Mobile:
360.739.2399

LinkedIn:
linkedin.com/in/kimberleylund

EDUCATION

BS, Chemical Engineering - University of Washington
Graduated 1996

SELECTED PROFESSIONAL EXPERIENCE

Executive Director
Bellingham Public Schools Foundation, Bellingham, WA
6/2014 to Present
Responsible for the operations, fiscal management and organizational development of the Foundation, which serves as the nonprofit partner for Bellingham Public Schools. I am responsible to the organization's $500,000+ annual budget. The Foundation supports the community's interest and investment in public schools by articulating giving opportunities that align with district priorities and cultivates support for new and/or unmet needs. I also act as an agent for reducing student achievement gaps by recognizing and addressing disparities between district schools and aligning funding with need. I also strive to create functional partnerships with other community organizations with similar interests to increase cooperation and support, reducing redundancy and confusion.

Outreach Director and Researcher
Communitywise Bellingham, Bellingham, WA
4/2011 to 4/2014
Responsible for the operations of a small nonprofit organization dedicated to providing independent analysis of the proposed Gateway Pacific Terminal project. As an organization with only two paid staff, I was tasked with a diverse set of responsibilities including the creation and maintenance of the CWB website (Wordpress), the design and development of all collateral marketing materials, technical research and report writing, political networking with relevant local elected officials and public outreach to various community groups.

ABOUT ME

I took a circuitous path from engineering and the statistical design of experiments to developing web and print design expertise. I began my career as a chemical engineer for Intel Corp. and later left to become a marketing director at a dot-com venture. There I received a crash course in web design, brand development, and channel-partner management. I translated this learning into a successful small business start-up. My time these days is currently divided between freelancing, family, community service, and travel with an occasional yoga class in between.

SOFTWARE SKILLS

flawless

Illustrator
Design
Shop
Wordpress
Office Suite

good

poor
SELECTED PROFESSIONAL EXPERIENCE

Co-owner and Founder,
Salty Girls, Bellingham, WA 2004 to 2007
Developed a line of all-natural health and beauty products for women athletes. Our products were carried in over 80 retail outlets nationwide including the Title 9 Catalog. Oversaw product development, formulation, production, operations, brand development, and sales. Responsible for all financial deliverables including budgeting, forecasting, accounting, and tax filings. Director of Dealer Development and Decision Support
Etera Corporation, Burlington, WA - Etera Networks 9/1999 to 7/2001
Successfully managed the ramp the 2000 & 2001 Etera Certified Dealer Program from 20 participants to over 1600. Responsible for implementation of marketing programs, events, seminars, and sales force communications. Hired and developed a training department within in a compressed schedule. Coordinated training for the external sales organization and launched Etera’s national online training program to over 500 channel partners on-time and at 25% of the allocated budget.

Failure Analysis Engineer
Intel Corporation, Hillsboro, OR – Portland Technology Development/Fab 20 2/1999 to 8/1999
Responsible for reporting baseline defect and root cause Pareto analysis for one of Intel’s highest volume semiconductor manufacturing facilities. This analysis drove fab-wide defect reduction efforts saving the company many millions by ensuring operational efficiency. Supported systematic excursion task forces and root cause investigations of process excursions in a state of the art semiconductor facility.

Process Engineer
Intel Corporation, Aloha, OR – Fab 5 Etch Department 9/1996 – 2/1999
Responsible for sustaining the automated wet etch modules used in the semiconductor manufacturing process. Team leader accountable for the technical growth, training and team health of 30+ technicians and specialists. Owned developing and implementing yield improvement and cost reduction projects through experimental design and analysis. Supervised the transfer of over 25% of the Pentium manufacturing process from Oregon’s Fab 5 to Intel’s Jerusalem Fab 8. One of seven engineers selected to the Fab 5 closure team that set both corporate and industry records for world class safety performance, factory line yields and productivity levels.

SELECTED SERVICE EXPERIENCE

Board Member, Pediatric Brain Tumor Research Fund 2010 to 2015
Successfully supported raising funds of over $1,200,000 in my four year tenure with the PBTRF through various events. The PBTRF is repeatedly recognized as one of the top-grossing guilds supporting Seattle Children’s Hospital and their oncology research efforts.

Board Member, Bellingham Public School Foundation 2012 to 2014
The newly revitalized Public School Foundation strives to close the existing funding gaps facing our educational systems and supports key programs and district priorities to ensure an excellent education for all of our local students. In addition to my regular board duties, I support the Foundation’s work through the creation and development of the BPSF’s print materials and strive to elevate the Foundation’s visibility and reach by improving their strategic messaging and encouraging thoughtful brand development. Elected to serve as Vice-President of the Board in the upcoming term.

REFERENCES AVAILABLE UPON REQUEST
COMMUNITYWISE
BELLINGHAM
informing the conversation

project violet
adopt a drug, begin the adventure...

SENDAN CENTER
excellence in child & adolescent behavioral health

Pink Polka Dots
raising money for pediatric brain cancer research
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:** Ordinance Amending WCC 3.08. Purchasing System

**ATTACHMENTS:** Memo, Ordinance, Code Revision

**SEPA review required?** ( ) Yes ( ) NO
**SEPA review completed?** ( ) Yes ( ) NO

**Should Clerk schedule a hearing?** ( X ) Yes ( ) NO

**Requested Date:**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Requesting Council approval of the proposed amendment to strike section 3.08.135 Sunset Provision in Chapter 3.08 Purchasing System of the Whatcom County Code. This will allow for continued public accountability to project management and streamlined project delivery of capital projects

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

** Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
TO: Members of the Whatcom County Council

THROUGH: Jack Louws, County Executive

FROM: Tyler Schroeder, Deputy Executive and Brad Bennett, Finance Manager

RE: Purchasing Policy Amendment

Date: May 9, 2018

Requested Action:
Consider and approve proposed amendment to strike section 3.08.135 Sunset Provision in Chapter 3.08 Purchasing System of the Whatcom County Code establishing administrative procedures for advertising and approving public contracts.

Background and Purpose:
Whatcom County Council and Executive share responsibility under WCC 3.08 for transparent, predictable, and efficient procurement of goods and services necessary to execute authorized County work. With new 2015 changes to the State purchasing laws and the Administration’s effort to provide a more transparent and program-oriented approval process the Council approved Ordinance 2016-032 amending Chapter 3.08 Purchasing System.

The 2016 changes made to the purchasing system have helped to clarify the purchasing code which has resulted in streamlined project delivery. The corresponding online project reporting enhancements have created greater transparency and public accountability to project management. In addition, the purchasing code changes have also contributed to a more robust capital improvement budget process.

As we enter the next biennium budget process and are once again developing the capital improvement budget we request to continue the positive outcomes outlined above that are a direct result of Ordinance 2016-032. The 2019-2020 budget documents will contain a separate capital program showing specific capital expenditures for the budget cycle. This coincides with online access to all contracts and online quarterly project expenditure updates. To ensure this process continues we are proposing the removal of 3.08.135 Sunset Clause which will revert to the purchasing code language in place prior to the adoption of Ordinance 2016-032.

Please contact Tyler Schroeder at extension 5207, Brad Bennett 5325, or Jon Hutchings at extension 6205 for questions or concerns regarding this amendment.

Enc.: Proposed amendment to existing WCC Chapter 3.08- Removal of 3.08.135 Sunset Provision.
ORDINANCE NO. 2018-___

AN ORDINANCE AMENDING WHATCOM COUNTY CODE 3.08, PURCHASING SYSTEM

WHEREAS, Washington State has updated the laws governing county purchasing activities; and

WHEREAS, Whatcom County has improved transparency and access to contracts and project budget reports by making them available on-line with the launch of a new public website;

WHEREAS, Whatcom County is unique in its limited purchasing thresholds allowed under Executive Authority when compared to other Washington State Charter Counties and local municipalities; and

WHEREAS, The County has achieved greater administrative efficiencies through the clarification and streamlining of purchasing processes approved in Ordinance 2016-032; and

WHEREAS, The purchasing system code changes have created greater transparency and public accountability to project management; and

WHEREAS, The County would like to maintain the purchasing code language from which streamlined project management successes have been attributed by removing Section 3.08.135 Sunset Provision from Chapter 3.08 Purchasing System;

WHEREAS, It is essential and in the best interest of Whatcom County Government and its citizens to keep work flow moving particularly during the short and busy construction season.
NOW, THEREFORE, BE IT ORDAINED BY THE WHATCOM COUNTY COUNCIL,
Whatcom County Code 3.08 is amended to read in its entirety, as set forth in the attached
Exhibit A:

ADOPTED this day of , 2018.

WHATCOM COUNTY COUNCIL
ATTEST:

WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council  
Rud Browne, Council Chair

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

Daniel L. Gibson  
Civil Deputy Prosecutor  
Jack Louws, County Executive

Date Signed:  

( ) Approved  ( ) Denied
EXHIBIT A
Chapter 3.08
PURCHASING SYSTEM

3.08.135 Sunset provision.

The county council must renew this chapter by December 31, 2018, or the chapter will revert to the language in place on August 1, 2016. All contracts will be administered by the purchasing ordinance in place at the time the contract was signed. (Ord. 2016-032 Exh. A).
EXHIBIT A
Chapter 3.08
PURCHASING SYSTEM

3.08.135 Sunset provision.

The county council must renew this chapter by December 31, 2018, or the chapter will revert to the language in place on August 1, 2016. All contracts will be administered by the purchasing ordinance in place at the time the contract was signed. (Ord. 2016-032 Exh. A).
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Ordinance establishing WCC 1.32, adopting rules re: disclosure of public records

**ATTACHMENTS:**
Ordinance

**SEPA review required?**

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<th>( ) NO</th>
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**SEPA review completed?**

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<th>( ) Yes</th>
<th>( ) NO</th>
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**Should Clerk schedule a hearing?**

<table>
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<th>( ) Yes</th>
<th>( ) NO</th>
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**Requested Date:**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Ordinance establishing Whatcom County Code 1.32, adopting rules regarding compliance with Chapter 42.56 RCW, Public Records Act

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council)
ORDINANCE NO. ______

ESTABLISHING WHATCOM COUNTY CODE 1.32, PUBLIC RECORDS

WHEREAS, the people of the State of Washington, by Initiative Measure No. 276 (approved November 7, 1972), declared public policy to be for the full access to public records concerning the conduct of government; and

WHEREAS, Initiative Measure No. 276, codified as a portion of Chapter 42.56 RCW, mandates broad disclosure of public records, subject to exception found in that law and elsewhere; and

WHEREAS, every local agency is required to adopt rules regarding compliance with Chapter 42.56 RCW; and

WHEREAS, the local procedures should be codified in a chapter of the Whatcom County Code.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code Chapter 1.32, Public Records, is hereby established as outlined in Exhibit A to this ordinance.

BE IT FURTHER ORDAINED that if a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

ADOPTED this ______ day of ____________, 2018.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Rud Browne, Chairperson

APPROVED as to form:

Jack Louws, Executive

( ) Approved ( ) Denied

Date: ____________________
Chapter 1.32
Public Records

1.32.010 Purpose.
The purpose of this chapter is to ensure compliance with the provisions of Chapter
42.56 RCW and other applicable law relating to disclosure of public records.

1.32.020 Construction.
The provisions of this chapter shall be liberally construed to provide public access to public
records concerning the conduct of government, mindful of individuals' privacy rights and the
desirability of the efficient administration of government.

1.32.030 Disclosure of Public Records Required.
The County Council, the County Executive, and each County department, agency, division,
board, office, commission, or other County entity shall make available for public inspection
and copying all public records the disclosure of which is required by chapter 42.56 RCW or
other law.

1.32.040 Public Records Officer.
(1) The County Executive shall appoint a public records officer who shall provide centralized
oversight, guidance and leadership to fulfill public records request for the county.
(2) Subject to subsection (3) of this section, the public records officer shall:
(a) Serve as a point contact for members of the public in requesting disclosure of
public records, provided that requests may also be presented to County offices and
departments.
(b) Oversee compliance with the public disclosure requirements of this chapter; and
(c) Adopt such policies and procedures as may be necessary to carry out the
provisions of this chapter consistent with applicable laws.
(3) Final decision-making authority over public disclosure of records of the County Council
shall be vested in the chairperson of the County Council or the chairperson's designee.
(4) The public records officer shall publish his or her name and contact information in a way
reasonably calculated to provide notice to the public, such as posting at the County's
primary place of business, posting on the County's internet site, or including in County
publications.
(5) The department head will establish and follow rules for records management in their
department. The department head will designate a contact for public record requests.

1.32.050 Public Records Request.
(1) The public records officer shall provide a set of uniform public disclosure request forms
for use throughout the executive and legislative branches of county government. All
requests for public records shall be presented in writing to the public records officer or to
the public records designee of the department, agency, division, board, office, commission,
or other County entity believed to be responsible for the records being requested. The
request shall include the following:
(a) The name and contact information of the person making the request for the
record;
(b) Reasonable notice that the request is for the disclosure of public records pursuant
to the public records act;
(c) Identification of the requested records by reference to names, title, subject matter,
and time frames, or other means adequate for the public disclosure officer or public
records designee to locate the requested records; and
(2) Upon receiving a request, the public records officer or public records designee shall document the date the request was received.

(3) Departments and offices of elected or appointed officials having records that have customarily been open to public inspection and/or copying may, at the option of the heads of such departments or offices, permit inspection and copying without requiring such requests in writing.

1.32.060 Lists of Individuals.
In the case of a request for records that may contain a list of individuals, prior to receiving the records, the person making the request must furnish an affidavit stating either:
(1) That he/she is not requesting the list for commercial purposes; or
(2) That he/she is specifically authorized or directed by law to obtain the list of individuals for commercial purposes, and that identifies such law.

1.32.070 Review of Denial and Exhaustion of Administrative Remedies.
(1) Any person who objects to the initial denial or partial denial of a request for a public record subject to chapter 42.56 RCW may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the decision denying the request.
(2) The public records officer shall promptly provide the petition and other relevant information to the Prosecuting Attorney or his/her designee.
(3) The Prosecuting Attorney or designee shall consider the petition and affirm or reverse the denial within two business days after the public records officer’s receipt of the petition, or within such other time as the County and the requestor may mutually agree.
(4) Administrative remedies shall not be considered exhausted until the Prosecuting Attorney or designee has made a written decision, or until the close of the second business day following receipt of the written request for review of the action of the public records officer, whichever occurs first.
(5) For purposes of the public disclosure laws, the action of the public records officer becomes final only after the review conducted under this section has been completed. No lawsuit to review the action taken, compel the production of a public record, or impose a penalty, costs, or attorney fees shall be brought before the administrative remedies set out in this section have been exhausted by the party seeking the record.

1.32.080 Charges for Records.
(1) No fee shall be charged for the inspection of public records under this chapter.
(2) No fee shall be charged for locating public documents and making them available for copying.
(3) Pursuant to RCW 42.56.120 (2)(b), the County is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:
   (a) The County does not have the resources to conduct a study to determine actual copying costs for all of its records;
   (b) To conduct such a study would interfere with other essential agency functions.
   Therefore, the County shall charge fees for copies of records pursuant to the default fees in RCW 42.56.120(2)(b) and (c).
(4) The County shall charge fees for customized services pursuant to RCW 42.56.120(3).
(5) In addition to the fees and charges in subsections (3) and (4) above, the department may also require a deposit not to exceed ten percent of the estimated cost of providing copies for a request. If the department makes a request available on a partial or installment basis, the agency may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the department is not obligated to fulfill the balance of the request.
1.32.090  Exemptions.
Public records that are not subject to disclosure under state law, that are described as
exempt by chapter 42.56 RCW, or that are required to be withheld by any other law, are
exempt from disclosure under this chapter.

1.32.100  Index of Public Records.
(1) Whatcom County government is comprised of many departments, agencies, divisions,
boards, offices, and commissions which maintain separate records and incompatible record-
keeping systems. The County’s records are voluminous, diverse, complex and stored in
multiple locations and in multiple incompatible data bases. Therefore, it would be unduly
burdensome and costly to the taxpayers, and would substantially interfere with effective
and timely County operations, to develop an index of those records identified in
RCW 42.56.070(3).
(2) No County department, agency, division, board, office, commission, or other County
entity is required to maintain an index of public records conforming to the requirements of
RCW 42.56.070(3).
(3) Any index maintained by an individual department, agency, division, board, office,
commission, or other County entity shall be made available for public inspection and
copying unless exempt from disclosure or made confidential by law.