

BOUNDARY REVIEW BOARD FOR SNOHOMISH COUNTY

RULES OF PRACTICE AND PROCEDURE

TABLE OF CONTENTS

Administration	3
Scope of Rules	3
Organization.....	3
Chair, Vice-Chair, and Clerk.....	3
Clerk	3
Correspondence.....	3
Hours of Operation	3
Practice and Procedures	3
Documents and Maps	3
Page and Margin Size	3
Processing of Notices of Intention and Petitions.....	4
Form	4
Content of Notices of Intention and Maps	4
Parties, Filing, Fee, and Waiver.....	4
Initiator and Parties of Record.....	4
Request for Additional Information.....	4
Filing Date and Fee.....	5
Waiver of Review	5
Notices	5
Routing.....	5
Notice to the Board and Others.....	5
Withdrawal	5
Request for Review	5
Review Hearing	6

Fees Not Refundable.....	6
Conclusion of Action	6
Ordinances, Resolutions, and Maps.....	6
Recording	6
Meetings and Hearings	6
Schedule of Regular Meetings	6
Special Meetings	6
Meeting Agendas	6
Hearings and Notice.....	7
Initial Position Statements and Briefs.....	7
Hearings	7
Oath or Affirmation.....	7
Testimony.....	7
Additional Hearings.....	8
Preparation of Decision	8
Reconsideration	8
Remand	8
Conduct.....	8
Rules of Order	8
Conduct of Attendees	8
Participation by the Chair	8
Voting.....	8
Postponement and Adjournment	9
Ex Parte Communications	9
Record of Meetings and Hearings.....	9
Timeline for Applicability of Rules	9

ADMINISTRATION

Scope of Rules

These Rules of Practice and Procedure (“Rules”) of the Boundary Review Board (also “Boundary Review Board” or “Board” or “BRB”) for Snohomish County are effective January 1, 2025.

All matters submitted to the Board shall be conducted in accordance with applicable statutes, other legal authorities, and these Rules of the Board.

Organization

Chair, Vice-Chair, and Clerk

At its annual meeting, the Board shall elect a Chair and Vice-Chair from among its members. The Chair and Vice-Chair shall serve for a period of one year and thereafter until their respective successors have been elected.

The Chair or Vice-Chair may be replaced at any time by a majority vote of the Board.

Members are not precluded from holding the position of Chair or Vice-Chair if their term as a member is set to expire prior to the expiration of their term as an officer.

The Vice-Chair shall serve in the absence of the Chair until a new Chair is elected .

In the event both the Chair and Vice-Chair positions become vacant, the most senior member of the Board shall act as Chair and the second most senior member of the Board shall act as Vice-Chair until elections can be held at the next regular or special meeting of the Board.

Clerk

The Chief Clerk (“Clerk”), as identified in RCW 36.93.070, is selected and managed by the Administrator of the Office of Hearings Administration (SCC 2.02.015). The Clerk manages Board administrative matters and generally serves as a public point of contact for the Board.

Correspondence

All mail to the Board shall be received by the Board at its location in the Office of the Hearings Administration, 3000 Rockefeller Avenue M/S 409, Everett, WA 98201 (“Board Office”). Electronic correspondence may be submitted to the Board at brb@snoco.org.

Hours of Operation

The hours of operation of the Board will be those as posted on the Board’s website. “Close of Business” is the posted time of the office closure.

PRACTICE AND PROCEDURES

Documents and Maps

Page and Margin Size

All documents and maps submitted to the Board shall be on 8 ½ inch by 11-inch page paper. The first page of each document must have a top margin of three inches; all other margins, including subsequent pages of each document, shall be one inch. All pages must be single-sided.

Processing of Notices of Intention and Petitions

All Notices of Intention (“NOI”), petitions, or other actions for consideration by the Board shall be submitted to the Board via the Clerk at the Board Office.

Form

All Notices of Intention, petitions, or other actions shall be submitted by the city, town, or special purpose district seeking Board review, or in case of an incorporation or formation, by the petitioner group in the appropriate form per applicable statute or Snohomish County Code. In its discretion, the Board may provide model forms on the Board’s website.

Content of Notices of Intention and Maps

A Notice of Intention shall describe no more than one contiguous area of land, that is, an area the boundary of which is defined by a single continuous line.

The Notice of Intention shall be accompanied by a Snohomish County Assessor’s map outlining the current perimeter boundary of the subject area together with a legal description of the subject area, and the current perimeter boundary of any city, town, or special purpose districts. This map shall also outline the new perimeter boundary of the subject area and include a “north” arrow symbol.

Each property parcel in the new subject area shall be labeled with the Snohomish County Assessor’s parcel number, either on the perimeter map or on a separate map(s).

In the case of the creation of a regional authority as allowed by statute, a Notice of Intention may describe more than one contiguous area of land.

Maps must meet the margin requirements in compliance with the Document Format Requirements of the Snohomish County Auditor recording division and must be in legible text of 8-point font or larger.

Parties, Filing, Fee, and Waiver

Initiator and Parties of Record

As provided by chapter 36.93 RCW, the initiator of a Notice of Intention, petition, or other action shall be that city, town or special purpose district submitting the Notice of Intention, petition, or other action.

In the case of formation of a city, town or special purpose district , the initiator shall be the entity that submits the Notice of Intention, petition, or other action to the Board. In cases where the Snohomish County Council proposes to create a sewer district pursuant to RCW 57.04.020 and is in receipt of an opinion of the County Health Officer as provided therein, the County Council shall be deemed the initiator (RCW 36.93.090).

“Party of Record” designates any person who has appeared at a public hearing and signed up to speak or to receive notification of any action taken by the Board or from whom the Board has received written communication on a specific Notice of Intention, petition, or other action.

Request for Additional Information

To facilitate consideration of a Notice of Intention, petition, or other action, the Board or its Clerk may request the initiator to supply additional information. Failure to submit such information may be a basis for the Clerk to delay deeming the Notice of Intention, petition, or other action as effective and filed.

Filing Date and Fee

The Clerk will request confirmation from the appropriate County offices and departments that a Notice of Intention, petition, or other action is legally sufficient. This will, at a minimum, entail a determination that the legal description of the property is correct and that the relevant provisions of Titles 35 and 35A RCW are met.

The Clerk will assign an effective filing date upon 1) the Clerk's determination that the Notice of Intention, petition, or other action is legally sufficient according to chapter 36.93 RCW and the Board's Rules, and upon 2) payment by the initiator of any required filing fee.

Waiver of Review

Pursuant to RCW 36.93.110, for a proposed annexation of less than ten acres and less than two million dollars in assessed valuation, the Chair may declare in writing that 1) review by the Board is not necessary for the protection of the interest of the various parties; and 2) the Board will not review such proposed annexation.

A request for a waiver of review must be submitted to the Board in writing simultaneously with the submittal of a Notice of Intention, petition, or other action.

Notices

Routing

Upon assignment of an effective filing date, the Clerk will route the Notice of Intention, petition, or other action to the Snohomish County Department of Planning and Development Services and other appropriate governmental agencies for review and comment.

Notice to the Board and Others

Upon assignment of an effective filing date, the Clerk shall forward a copy of the Notice of Intention, petition, or other action and accompanying materials to the Board. Notice shall also be provided to each governmental unit and party identified by the initiator on the Notice of Intention Cover Sheet.

In the case of a Notice of Intention, petition, or other action proposed by a water or sewer district, the Clerk shall notify the Snohomish County Health Department and the Washington State Department of Ecology.

Withdrawal

Any Notice of Intention, petition, or other action filed with the Board may be withdrawn by the initiator at any time prior to invocation of the Board's jurisdiction. Thereafter a Notice of Intention, petition, or other action may be withdrawn only with the consent of the Board and of all persons or entities who have requested review by the Board and paid the fee required to file such a request.

A request for review filed pursuant to RCW 36.93.100 may be withdrawn with the consent of the Board provided the Board has not yet publicized legal notice per the Board's Rules and/or Washington State's Open Public Meetings Act.

Request for Review

The Clerk shall not accept for filing any proposal for review unless it is accompanied by payment of such fees as required by law.

Review Hearing

Every matter for which there is a request for review and over which jurisdiction is invoked shall be set for hearing as provided by applicable statute and these Rules.

Fees Not Refundable

The Board shall not refund a fee unless authorized by statute.

Conclusion of Action

Ordinances, Resolutions, and Maps

A final ordinance or resolution of the initiator must include the approved legal description and map(s). The ordinance, legal description, and map(s) must meet the Document Format Requirements of the Snohomish County Auditor Recording Division.

An initiator must submit to the Board a copy of the final ordinance or resolution that is certified by the clerk of the initiator.

Recording

Upon final approval by the Board and, when appropriate, the County Council, the initiator must record the final ordinance with the Snohomish County Auditor and provide the recording number to the Board. The initiator is responsible for any recording fees.

MEETINGS AND HEARINGS

Schedule of Regular Meetings

Board meetings will be held on the second Wednesday of January, March, May, July, September, and November at 5:30 PM. If the regular meeting day is a legal holiday, such meeting shall be held on the next business day.

The meeting held in March will be designated as the Annual Meeting.

Meeting locations will be posted on the Board's website. At the Board's discretion, any meeting may be held in person or a combination of in-person and over an electronic platform.

If there is no necessary business to conduct, these meetings may not be held, and the cancellation will be posted on the Board's website.

Special Meetings

Special meetings may be called by the Chair to address matters which are time-sensitive and which must be addressed sooner than the next regularly scheduled meeting. Such meetings will be held as needed in a public meeting space designated by the Clerk.

Meeting Agendas

On or before the Friday preceding a regular Board meeting, an agenda shall be prepared by the Clerk which shall summarize all matters then known to require attention.

However, the Board may consider any other matter brought before it by any member so long as all necessary notice requirements have been fulfilled. A copy of the agenda for each meeting shall be kept on file by the Clerk.

The agenda of a special meeting shall be posted on the Board's website 24 hours prior to the meeting.

Public comment shall be limited to three (3) minutes per person. Time limits are not applicable to any additional comments in response to queries posed by the Board, except in the discretion of the Chair.

Hearings and Notice

When the jurisdiction of the Board has been invoked, a public hearing will be scheduled in accordance with state statute. Notice of the hearing shall be provided in accordance with state law.

The Clerk will ask each governmental unit affected by the proposed action to advise the Board in writing of its position regarding the Notice of Intention, petition, or other action.

Initial Position Statements and Briefs

All materials shall be delivered to the Board Office no later than the close of business on the due date. Delivery means delivery by hand, courier, US mail, or electronic mail.

Materials received by the Clerk at least seven days in advance of the hearing will be provided to the Board no later than five days in advance of the hearing.

Materials received by the Clerk less than seven days prior to the scheduled public hearing will be provided to the Board at the public hearing but may be provided to the Board sooner.

Written materials may also be submitted to the Board at the public hearing by members of the public.

Hearings

Any initiator, governmental unit, interested person or persons, or any duly authorized representative may appear before the Board. Any initiator, governmental unit, interested persons or persons, or duly authorized representative interested in addressing the Board must be recognized by the Chair before providing their name and address and the name of the persons or entity on whose behalf they are appearing. The Chair may, in the interest of facilitating the business of the Board, set the amount of time allotted to any initiator, governmental unit, interested person or persons, or duly authorized representative.

Oath or Affirmation

The Clerk or designee shall administer an oath or affirmation to any person wishing to offer testimony, utilizing language materially similar to the language required in courts pursuant to RCW 5.28.020 or RCW 5.28.050.

Testimony

Unless the Chair exercises their discretion to alter it, the order of testimony at a hearing will be:

1. The initiator will be allowed a total of 30 minutes.
2. An opponent or opponent group will be allowed a total of 30 minutes; if there is more than one opponent, the Chair may exercise their discretion to limit the amount of time for each opponent or opponents group.
3. Snohomish County and other governmental entities (districts, cities, etc.) will each be allowed a total of 15 minutes.
4. Other proponents and opponents will be allowed a total of 5 minutes each.
5. If the Chair allows, the initiator may present rebuttal testimony of no more than 10 minutes.

The Chair may change the order or length of testimony in their discretion. The Chair will consider the number of persons desiring to testify and any other factors affecting the orderly presentation of information to the Board.

Additional Hearings

Before filing its written decision, the Board may hold additional hearings on any matter after adjournment of the initial hearing. The Clerk will notify the initiator, affected government entities, and parties of record of the date, time, location, or manner of any additional hearing and will publish such information on the Board's website.

Preparation of Decision

The Board may request that the initiator, any opponent, or other party submit proposed findings of fact and conclusions of law, or a proposed decision in Word or other electronic format.

Reconsideration

Board decisions are not subject to reconsideration.

Remand

In the event of a remand from a superior or appellate court, the Board will determine the appropriate procedure at the earliest available meeting. If the Board determines that a hearing should be scheduled, the Board will endeavor to do so within the time frame set by statute for new hearings. The Board may limit testimony, submission of new exhibits, or written comments as it deems necessary or appropriate.

Conduct

Rules of Order

Except as modified by these Rules, all meetings and hearings of the Board generally shall be conducted in accordance with *Roberts Rules of Order, 12th Edition*.

Conduct of Attendees

If any meeting is interrupted by a person or group of persons so as to render the orderly conduct of such meeting unfeasible, the Board may, upon a vote of the members present 1) order the meeting room cleared and continue in session; or 2) adjourn the meeting and reconvene at another location or in another manner, such as wholly on an electronic platform. In such a session, final action may be taken only on matters appearing on the agenda.

Unless they participated in the disturbance, representatives of the press or other news media shall be allowed to attend any session held pursuant to this section.

Participation by the Chair

The Chair and Vice Chair may make or second any motion and present and discuss any matter as a member and shall be entitled to vote on all matters.

Voting

The normal procedure shall be a roll call vote. A tie vote shall be resolved pursuant to the provisions of RCW 36.93.150 which provides that "unless a board disapproves a proposal, it shall be presented under the appropriate statute for approval of a public body and, if required a vote of the people." In the absence of objection by a Board member, the Chair may declare a motion approved by acclamation.

A Board member may only vote on a decision if either they were present for all sessions of the hearing or they affirm they received and reviewed the recorded hearing sessions and exhibits prior to voting.

Postponement and Adjournment

The Chair may postpone or continue any pending matter to a date certain at any time or the Board may adjourn to any particular time and place or to a time and place subject to notice as provided by law.

Ex Parte Communications

Communication outside of a hearing about the substance of a pending matter or a matter likely to come before the Board between a Board member and anyone other than the Clerk, the Board's legal counsel, or another board member, is a prohibited ex parte communication.

During the pendency of any proceeding, no Board Member may engage in ex parte communication with respect to the proceeding until after the Board issues a decision unless: 1) the member states on the record the substance of the ex parte communication and 2) publicly announces the content of the communication and of the parties' rights to rebut the substance of the communication at each hearing where action is considered or taken on the subject to which the communication relates (RCW 42.36.184).

If a Board member receives written communication relating to an action before the Board from a source other than the Board office, that member shall transmit the material to the Clerk for inclusion in the record.

Board members shall disclose any ex parte communication at the earliest opportunity during any public meeting or hearing where the matter will be addressed as follows:

1. The member shall state the substance of any written or oral ex parte communication concerning the decision or action;
2. The Board shall allow a party to rebut the substance of the communication;
3. The Board shall allow any party to request disqualification of the Board member; and
4. The member shall either recuse themselves or explain why recusal is not required.

Should the member or Chair decide that recusal is required to provide a fair hearing, the member shall withdraw from the proceeding and shall leave the hearing.

Record of Meetings and Hearings

The Clerk shall create minutes of meetings and hearings, which shall be posted on the Board's website within one week. If modification of the minutes is required, those will be addressed at the next meeting of the Board.

All meetings and hearings of the Board shall be electronically recorded, and the recording shall be the official record. In the event of an appeal to Superior Court, transcripts or portions thereof shall be created and made available to interested parties upon request to the Clerk and payment of the cost of creating the transcript. Such costs shall include (but are not limited to) the cost of transcription, copying, and verification of materials. Copies shall be retained for the Board's records.

Other than the official record, the recording, photography, or video recording of any Board meeting or hearing is not permitted without written permission of the Chair.

Timeline for Applicability of Rules

These rules shall remain in full force and effect unless and until superseded.

Adopted this _____ day of _____, 2024.

Approved by:

David Hambelton, Chair
Boundary Review Board

Submitted by:

Sonya Kraski, Chief Clerk

DRAFT