

1.0001-Parties\_of\_Record

No.	Name	Organization	Email Address	Street Address	City	State	Zip Code	Notes
1	Michael Atwood		<a href="mailto:macatwood@aol.com">macatwood@aol.com</a>					
2	Rebecca Samy	PDS, Permitting	<a href="mailto:rebecca.samy@snoco.org">rebecca.samy@snoco.org</a>					
3	Peter Camp	Office of Hearings Ad	<a href="mailto:peter.camp@snoco.org">peter.camp@snoco.org</a>					
4	Debbie Eco	County Council Staff	<a href="mailto:debbie.eco@snoco.org">debbie.eco@snoco.org</a>					
5	Ryan Countryman	County Council Staff	<a href="mailto:ryan.countryman@snoco.org">ryan.countryman@snoco.org</a>					
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exceed seventy-five percent of the assessed value of the building, shall be considered completely destroyed and shall be required to meet all yard, open space, height, and area requirements upon restoration. (§27(part) of Res. adopted January 31, 1966).

### Chapter 18.88

#### VARIANCES, CONDITIONAL USE PERMITS AND APPEALS

##### Sections:

- 18.88.010 Granting variances.
- 18.88.020 Conditions for granting.
- 18.88.030 Granting conditional use permits.
- 18.88.040 Conditions for granting.
- 18.88.050 Hearing.
- 18.88.060 Filing fees.
- 18.88.070 Previous use--Occupancy.
- 18.88.080 Appeals.
- 18.88.090 Time limit.
- 18.88.100 Notice of hearing.
- 18.88.110 Board's authority.
- 18.88.120 Decision--When reached.
- 18.88.130 Notice of decision.
- 18.88.140 Records.
- 18.88.150 Orders effective date--Appeal from board's decision.
- 18.88.160 Application form.
- 18.88.170 Signatures of neighbors as evidence.
- 18.88.180 Continuation of hearing.
- 18.88.190 Reapplication.

18.88.010 Granting variances. The board of adjustment shall have the authority to grant a variance from the provisions of this title when in the opinion of the board of adjustment the conditions as set forth in Section 18.88.020 have been found to exist. In such cases, a variance may be granted which is in harmony with the general purpose and intent of this title so that the spirit of this title shall be observed, public safety and welfare secured and substantial justice done. (§29.01 of Res. adopted January 31, 1966).

18.88.020 Conditions for granting. Before any variance may be granted, it shall be shown that:

- (1) There are special circumstances applicable to the subject property or to the intended use, such as shape, topography, location or surroundings, that do not apply generally to the other property or class of use in the same vicinity and zone;

(2) Such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in the same vicinity and zone but which because of special circumstances is denied to the property in question;

(3) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located;

(4) The granting of such variance will not adversely affect the comprehensive plan. (§29.02 of Res. adopted January 31, 1966).

18.88.030 Granting conditional use permits. Upon application therefor, the board of adjustment may grant conditional use permits for such use and under such circumstances as set forth in this title. Conditional use permits shall be nontransferable unless the transfer is further approved by the board of adjustment. (§29.03 of Res. adopted January 31, 1966).

18.88.040 Conditions for granting. When considering an application for conditional use permit, the board of adjustment shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing the use. The conditions may:

(1) Increase requirements in the standards, criteria or policies established by this title;

(2) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, land slides or traffic;

(3) Require structural features or equipment essential to serve the same purpose set forth in (2) above;

(4) Impose conditions similar to those set forth in items (2) and (3) above as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters, provided, the board of adjustment may not, in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use nor otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;

(5) Assure that the degree of compatibility made the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;

(6) Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need. (§29.04 of Res. adopted January 31, 1966).

18.88.050 Hearing. Upon the filing of an application for a variance or a conditional use permit by property owner, or by a lessee, the board of adjustment shall set a time and place for a public hearing to consider the application, as provided in their rules for transaction of business. A written notice thereof shall be mailed to all property owners of record within a three hundred foot radius of the external boundaries of subject property not less than twelve days prior to the hearing. The application shall set forth the grounds and facts deemed necessary to justify the granting of the variance or conditional use permit. (§29.05 of Res. adopted January 31, 1966).

18.88.060 Filing fees. A filing fee of fifteen dollars shall be paid upon the filing of an application for a variance. A fee of twenty-five dollars shall be paid upon the filing of an application for a conditional use permit. (§29.17 of Res. adopted January 31, 1966).

18.88.070 Previous use--Occupancy. Where prior to the date of the adoption of the ordinance codified in this title, special authority was granted for the establishment of conducting of a particular use on a particular site and for a special period of time or as set forth in an action then titled "Use and Occupancy", such previous permits are by this section declared to be continued as a conditional use permit without a specific time limit provided that if the particular use is such as is not otherwise permitted in the zone in which it is located, such established use and improvements incidental thereto shall be considered under the terms of this title as a nonconforming use. (§28 of Res. adopted January 31, 1966).

18.88.080 Appeals. The board of adjustment shall have the authority to hear and decide appeals from any order, requirement, permit decisions or determination made by an administrative official in the administration or enforcement of this title. (§29.06 of Res. adopted January 31, 1966).

18.88.090 Time limit. Appeals may be taken to the board of adjustment by any person aggrieved, or by any officer, department, board or bureau of the county affected by any decision of an administrative official. The appeals shall be filed in writing, in duplicate, with the board of adjustment within twenty days of the date of the action being appealed. (§29.07 of Res. adopted January 31, 1966).

18.88.100 Notice of hearing. Upon the filing of an appeal from an administrative determination, the board of adjustment shall set the time and place at which the matter will be considered. At least a ten day notice of such time and place, together with one copy of the written appeal shall be given to the official whose decision is being appealed. At least ten days notice of the time and place shall also be given to the adverse parties of record in the case. The official from whom the appeal is being taken shall forthwith transmit to the board of adjustment all of the records pertaining to the decision being appealed from, together with such additional written report as he deems pertinent. (§29.08 of Res. adopted January 31, 1966).

18.88.110 Board's authority. The board of adjustment may, in conformity with this title, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from, and may take the order, requirement, decision or determination as should be made. To that end, the board shall have all the powers of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned. (§29.09 of Res. adopted January 31, 1966).

18.88.120 Decision--When reached. Within twenty days following the termination of a public hearing on a variance, conditional use permit or an appeal from an administrative determination, the board of adjustment shall enter its order. In making the order, it shall include in a written, nonverbatim record of the case, the finding of fact upon which the decision is based. If such order grants a variance or a conditional use permit, it shall also recite the conditions and limitations that are imposed. (§29.10 of Res. adopted January 31, 1966).

18.88.130 Notice of decision. Not later than seven days, exclusive of Saturdays, Sundays and holidays, following the rendering of a decision ordering that a variance, conditional use permit or appeal from an administrative determination be granted or denied, a copy of the order shall be mailed to the applicant at the address shown on the application filed with the board of adjustment and to the administrative official involved in appeal cases. (§29.11 of Res. adopted January 31, 1966).

18.88.140 Records. The application filed pursuant to this title, the written order announcing a decision, evidence of notice, and other material submitted as evidence in a case shall become a part of the official records of the board of adjustment. (§29.12 of Res. adopted January 31, 1966).

18.88.150 Orders effective date--Appeal from board's decision. The order of the board of adjustment on an application for a variance, conditional use permit or an appeal from an administrative determination shall be final and conclusive unless within ten days from the date of the action the original applicant or an adverse party files an appeal to the superior court for a writ of certiorari, a writ of prohibition or a writ of mandamus. The filing of the appeal within such time limit shall stay the effective date of the order of the board of adjustment until such time as the appeal shall have been adjudicated or withdrawn. (§29.13 of Res. adopted January 31, 1966).

18.88.160 Application form. The board of adjustment may prescribe the form in which applications are made for a variance, conditional use permit or appeals from administrative determination. It may prepare and provide printed forms for such purpose and may prescribe the type of information to be provided in the application by the applicant. No application shall be accepted unless it complies with such requirements. (§29.14 of Res. adopted January 31, 1966).

18.88.170 Signatures of neighbors as evidence. If a signature of persons other than the owners of property making the application is offered in support of or in opposition to an application, they may receive as evidence of notice having been served upon them of the pending application or as evidence of their opinion on the pending issue, but they shall in no case infringe upon the free exercise of the powers vested in Snohomish County as represented by the board of adjustment. (§29.15 of Res. adopted January 31, 1966).

18.88.180 Continuation of hearing. If, for any reason, a public hearing cannot be completed on the date set for the hearing, the presiding officer at the public hearing may, before the adjournment or recess thereof, publicly announce the time and place to, and at which, the hearing will be continued, and no further notice is required. (§29.16 of Res. adopted January 31, 1966).

18.88.190 Reapplication. Upon final action as set forth in this chapter in denying an application for variance or conditional use permits, the planning agency shall not accept further filing of an application for substantially the same property involving substantially the same use within one year from the date of any final denial of an application. (Res. adopted October 23, 1967: §29.18 of Res. adopted January 31, 1966).

**18.84.080 Nonconforming structures.**

Permit Appeal: Index #1A000

Nonconforming structures may be structurally altered or enlarged; PROVIDED THAT the degree of nonconformance shall not be increased and the yard, height, lot coverage, and open space requirements of the zone in which the structure is located shall be observed.

B. A nonconforming structure accidentally destroyed by fire, explosion, Act of God, or act of public enemy to an extent where restoration costs would exceed seventy-five percent (75%) of the assessed value of the structure, shall be considered completely destroyed and shall be required to meet all yard, height, lot coverage, and open space requirements of the zone in which it is located upon restoration. (Res. adopted March 18, 1974.)

**CHAPTER 18.88**

**VARIANCES, CONDITIONAL USE PERMITS AND APPEALS**

**SPECIAL USE PERMITS (5-13-74)**

Sections:

- 18.88.010 Granting variances.
- 18.88.020 Conditions for granting.
- 18.88.030 Granting conditional use permits.
- 18.88.040 Conditions for granting.
- 18.88.050 Notice of hearing.
- 18.88.055 Certification to board of adjustment.
- 18.88.060 Application form.
- 18.88.070 Filing fees.
- 18.88.080 Previous use--occupancy.
- 18.88.090 Administrative appeals.
- 18.88.100 Administrative appeals--time limit.
- 18.88.110 Administrative appeals--notice of hearing.
- 18.88.115 Certification to board of adjustment.
- 18.88.120 Administrative appeals--authority.
- 18.88.130 Signatures of neighbors as evidence.
- 18.88.140 Decision--when reached.
- 18.88.150 Notice of decision.
- 18.88.160 Records.
- 18.88.170 Reapplication.
- 18.88.180 Orders effective date--appeal from zoning adjustor's decision.
- 18.88.190 Authority of board of adjustment.
- 18.88.200 Notice of public meeting.
- 18.88.210 Public meeting.
- 18.88.220 Public meeting--order.
- 18.88.230 Fee.
- 18.88.240 Notice of public hearing.
- 18.88.250 Hearing.
- 18.88.260 Board of adjustment order.
- 18.88.270 Notice of order.
- 18.88.280 Orders-effective date--appeal from board of adjustment decision.
- 18.88.290 Records.
- 18.88.300 Continuing jurisdiction.

18.88.010 Granting variances. The Zoning Adjustor shall have the authority to grant a variance from the provisions of this title when in the opinion of the Zoning Adjustor the conditions as set forth in Section 18.88.020 have been found to exist. In such cases, a variance may be granted which is in harmony with the general purpose and intent of this title so that the spirit of this title shall be observed, public safety and welfare secured and substantial justice done. (Res. adopted December 13, 1971).

18.88.020 Conditions for granting. Before any variance may be granted, it shall be shown that:

(1) There are special circumstances applicable to the subject property or to the intended use, such as shape, topography, location or surroundings, that do not apply generally to the other property or class of use in the same vicinity and zone;

(2) Such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in the same vicinity and zone but which because of special circumstances is denied to the property in question;

(3) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located;

(4) The granting of such variance will not adversely affect the Comprehensive Plan. (Res. adopted December 13, 1971).

18.88.030 Granting conditional use permits. Upon application therefor, the Zoning Adjustor may grant conditional use permits for such use and under such circumstances as set forth in this title. Conditional use permits shall be nontransferable unless the transfer is further approved by the Zoning Adjustor. (Res. adopted December 13, 1971).

18.88.040 Conditions for granting. When considering an application for conditional use permit, the Zoning Adjustor shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing the use. The conditions may:

(1) Increase requirements in the standards, criteria or policies established by this title;

(2) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, land slides or traffic;

(3) Require structural features or equipment essential to serve the same purpose set forth in (2) above;

(4) Impose conditions similar to those set forth in items (2) and (3) above as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters, PROVIDED, the Zoning Adjustor may not, in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use nor otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;

(5) Assure that the degree of compatibility made the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;

(6) Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need. (Res. adopted December 13, 1971).



AMEND TO READ:

18.88.050 Notice of hearing. Upon the filing of an application for a variance, conditional use permit or special use permit by a property owner, the Zoning Adjustor shall set a time and place for a public hearing to consider the application, as provided in his rules for transaction of business. A written notice thereof shall be mailed to all property owners of record within a three hundred (300) foot radius of the external boundaries of the subject property, not less than twelve (12) days prior to the hearing.

*Adopted May 13, 1974*

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18.88.055 Certification to the Board of Adjustment. Notwithstanding Section 18.88.050, upon the filing of an application for a variance, conditional use permit or special use permit by a property owner or by a lessee, the Zoning Adjustor may, in his discretion, certify the application directly to the Board of Adjustment for an original hearing for any of the following reasons:

- (1) A conflict of interest on the part of the Zoning Adjustor;
- (2) Absence or illness of the Zoning Adjustor;
- (3) A matter which is within the original jurisdiction of the

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Board of Adjustment, pursuant to Section 18.83.190 (3).

*Adopted May 13, 74*

18.88.060 Application form. The Zoning Adjustor may prescribe the form in which applications are made for a variance, conditional use permit, special use permit or appeals from administrative determination. He may prepare and provide printed forms for such purpose and may prescribe the type of information to be provided in the application by the applicant. No application shall be accepted unless it complies with such requirements.

*5-13-74*

18.88.070 Filing fees. A filing fee of twenty-five dollars (\$25) shall be paid upon the filing of an application for a variance or special use permit. A fee of seventy-five dollars (\$75) shall be paid upon the filing of an application for a conditional use permit.

*5-13-74*

18.88.080 Previous use--occupancy. Where prior to July 1, 1962, special authority was granted for the establishment of conducting of a particular use on a particular site and for a special period of time or as set forth in an action then titled "Use and Occupancy", such previous permits are by this section declared to be continued as a conditional use permit without specific time limit provided that if the particular use is such as is not otherwise permitted in the zone in which it is located, such established use and improvements incidental thereto shall be considered under the terms of this title as a non-conforming use. (Res. adopted December 13, 1971).

18.88.090 Administrative appeals. The Zoning Adjustor shall have the authority to hear and decide appeals from any order, requirement, permit, decision or determination made by an administrative official other than the Zoning Adjustor himself in the administration or enforcement of the Washington State Planning Enabling Act or this title. (Res. adopted December 13, 1971).

18.88.100 Administrative appeals--time limit. Appeals may be taken to the Zoning Adjustor by any person aggrieved, or by any officer, department, board or bureau of the County affected by any decision of an administrative official. The appeals shall be filed in writing, in duplicate, with the Zoning Adjustor within twenty (20) days of the date of the action being appealed. (Res. adopted December 13, 1971).

18.88.110 Administrative appeals--notice of hearing. Upon the filing of an appeal from an administrative determination, the Zoning Adjustor shall set the time and place at which the matter will be considered. At least a ten (10) day notice of such time and place, together with one (1) copy of the written appeal shall be given to the official whose decision is being appealed. At least ten (10) days notice of the time and place shall also be given to the adverse parties of record in the case. The official from whom the appeal is being taken shall forthwith transmit to the Zoning Adjustor all of the records pertaining to the decision being appealed from, or copies thereof, together with such additional written report as he deems pertinent. (Res. adopted December 13, 1971).

18.88.115 Certification to Board of Adjustment. Notwithstanding Section 18.88.110, upon the filing of an appeal from an administrative determination, the Zoning Adjustor may, in his discretion, certify the appeal directly to the Board of Adjustment for an original hearing for any of the following reasons:

- (1) A conflict of interest on the part of the Zoning Adjustor;
- (2) Absence or illness of the Zoning Adjustor;
- (3) A matter which is within the original jurisdiction of the Board of Adjustment, pursuant to Section 18.88.190 (3). (Res. adopted December 13, 1971).

18.88.120 Administrative appeals--authority. The Zoning Adjustor may, in conformity with this title, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from, and may take the order, requirement, decision or determination as should be made. To that end, the Zoning Adjustor shall have all the power of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned. (Res. adopted December 13, 1971).

18.88.130 Signatures of neighbors as evidence. If signatures of persons other than the owners of property making the application are offered in support of or in opposition to an application, they may be received as evidence of notice having been served upon them of the pending application or as evidence of their opinion on the pending issue, but they shall in no case infringe upon the free exercise of the powers vested in Snohomish County as represented by the Zoning Adjustor and Board of Adjustment. (Res. adopted December 13, 1971).

18.88.140 Decision, when reached. Within twenty (20) days following the termination of a public hearing on a variance, conditional use permit, special use permit or an appeal from an administrative determination, the Zoning Adjustor shall enter his written order. In making the order, it shall include in a written nonverbatim record of the case, the findings of fact upon which the decision is based. If such order grants a variance, conditional use permit or special use permit, it shall also recite the conditions and limitations that are imposed.

December 13, 1971).

5/13/74

18.88.150 Notice of decision. Not later than three (3) days, exclusive of Saturdays, Sundays and holidays, following the rendering of written decision ordering that a variance, conditional use permit, special use permit or appeal from an administrative determination be granted, or denied, a copy of the order shall be mailed to parties of record in the case. 5/13/74

18.88.160 Records. The application filed pursuant to this title, the written order announcing a decision, evidence of notice, and other material submitted as evidence in a case shall become a part of the official records of the office of the Zoning Adjustor. "Parties of record" shall include the applicant and all persons who specifically request to be notified of proceedings and orders regarding a case. (Res. adopted December 13, 1971).

18.88.170 Reapplication. Upon final action, as set forth in this chapter, in denying an application for variance, conditional use permit or special use permit, neither the office of the Zoning Adjustor nor the Board of Adjustment shall accept further filing of an application for substantially the same use within one year from the date of any final denial of an application. 5/13/74

18.88.180 Effective date of orders--appeal from Zoning Adjustor's decision. The order of the Zoning Adjustor on an application for a variance, conditional use permit, special use permit or an appeal from an administrative determination shall be final and conclusive unless within ten (10) days after the Zoning Adjustor has entered his written order, a petition for appeal is filed with the Board of Adjustment. Such petition may be filed by the original applicant or by opponents of record in the case. The petition for appeal shall consist of a brief statement of the reasons why error is assigned to the Zoning Adjustor's findings of fact, conclusions, or order. The timely filing of a petition for appeal from an order of the Zoning Adjustor shall stay the effective date of the order until such time as the appeal is adjudicated by the Board of Adjustment or is withdrawn. 5/13/74

18.88.190 Authority of Board of Adjustment. The Board of Adjustment, subject to the provisions of this title and the provisions of State law, shall consider the following:

(1) Petitions for appeal from any order of the Zoning Adjustor relating to variances, conditional use permits and special use permits, provided that an appeal must be filed pursuant to the requirements of Section 18.88.170;

(2) Applications for variances, conditional use permits, special use permits and administrative appeals, which are certified to the Board of Adjustment by the Zoning Adjustor for an original hearing for any of the reasons stated in Section 18.88.055;

(3) Applications for variances, conditional use permits, special use permits and administrative appeals, which are filed by the applicant directly with the Board of Adjustment for an original hearing and over which the Board of Adjustment chooses, in its discretion to exercise its original jurisdiction for any of the following reasons:

- (a) A conflict of interest on the part of the Zoning Adjustor;
- (b) A matter directly related to and affecting, or affected by, a prior order of the Board of Adjustment;
- (c) A matter of substantial public interest.

of the following reasons:

- (a) A conflict of interest on the part of the Zoning Adjustor.
- (b) A matter directly related to, and affecting or affected by, a prior order of the Board of Adjustment.
- (c) A matter of substantial public interest. (Res. adopted December 13, 1971).

18.88.200 Notice of public meeting. Upon a petition for appeal from an order of the Zoning Adjustor being filed with the Board of Adjustment, or upon an application being certified by the Zoning Adjustor to the Board of Adjustment, or upon an applicant petitioning the Board of Adjustment to assume original jurisdiction over a case, the Board of Adjustment shall set a time and place at which the matter will be considered at a public meeting. At least ten (10) days notice of such public meeting shall be given to all parties of record. (Res. adopted December 13, 1971).

18.88.210 Public meeting.

(1) At a public meeting to consider a petition for appeal from an order of the Zoning Adjustor, the Board of Adjustment shall review:

- (a) The original application form and all attachments.
- (b) All exhibits admitted into evidence at the public hearing held before the Zoning Adjustor.
- (c) The Zoning Adjustor's written order.
- (d) The petition for appeal. The Board of Adjustment may concur with the findings and conclusions of the Zoning Adjustor, adopt them as its own, and enter an order identical to that of the Zoning Adjustor; or, the Board of Adjustment may reject the findings, conclusions and order of the Zoning Adjustor, in whole or in part, and enter an order calling for a public hearing pursuant to Section 18.88.240.

(2) At a public meeting to consider a matter certified to the Board of Adjustment by the Zoning Adjustor, the Board of Adjustment shall review:

- (a) The original application form and all attachments.
- (b) A written statement by the Zoning Adjustor setting forth the reasons for certification. The Board of Adjustment may accept the Zoning Adjustor's reasons for certification, and enter an order calling for a public hearing pursuant to Section 18.88.240; or, the Board of Adjustment may reject the Zoning Adjustor's reasons for certification, and enter an order remanding the case to the Zoning Adjustor for public hearing pursuant to Section 18.88.050.

(3) At a public meeting to consider a petition by an applicant for the Board of Adjustment to assume original jurisdiction, the Board of Adjustment shall review:

- (a) The application form and all attachments.
- (b) The applicant's petition. The Board of Adjustment may accept the applicant's reasons for assuming original jurisdiction over the case, and enter an order calling for a public hearing pursuant to Section 18.88.240; or, the Board of Adjustment may reject the applicant's reasons for assuming original jurisdiction over the case, and enter an order certifying the case to the Zoning Adjustor for public hearing pursuant to Section 18.88.050. (Res. adopted December 13, 1971).

18.88.220 Public meeting--order. Not more than forty-five (45) days following the filing of a petition for appeal, certification of application, or petition for original jurisdiction, the Board of Adjustment shall enter a written order relating thereto. Provided that, the time for entry of an order may be extended with the written consent of the petitioning party, or in the case of certifications, the written consent of the applicant. Not later than three (3) days, exclusive of Saturdays, Sundays and holidays, following the entering of a written order, a copy of the order shall be mailed to all parties of record in the case. (Res. adopted December 13, 1971.)

18.88.230 Fee. Upon an order being entered by the Board of Adjustment calling for a public hearing on a particular case, the party seeking such hearing shall pay a fee of twenty-five dollars (\$25) if the case involves an application for a variance or special use permit, and seventy-five dollars (\$75) if the case involves an application for a conditional use permit; PROVIDED that in cases where the Board of Adjustment has accepted an application certified to it by the Zoning Adjustor, no fee in addition to that paid pursuant to Section 18.88.070 shall be required. 5/13/74

18.88.240 Notice of public hearing. Upon an order being entered by the Board of Adjustment calling for a public hearing on a particular case, and upon the fee required in Section 18.88.230 being paid, a time and place shall be set for the public hearing, and notice thereof shall be given by the Board of Adjustment in conformity with the requirements of Section 18.88.050. (Res. adopted December 13, 1971).

18.88.250 Hearing. All variance, conditional use permit and special use permit applications before the Board of Adjustment at public hearings shall be presented as if they were original applications, and the Board of Adjustment's decision shall be based upon its own findings of fact and conclusions; PROVIDED that, in cases where an order of the Zoning Adjustor has been appealed, the Zoning Adjustor shall certify to the Board of Adjustment a verbatim record of the testimony of any witness who testified before the Zoning Adjustor but who will not testify before the Board of Adjustment; PROVIDED FURTHER that said witness must place a written request with the Zoning Adjustor for the preparation of the record not less than twenty (20) days prior to the public hearing before the Board of Adjustment and must pay for such preparation at a rate to be set by the Zoning Adjustor. 5/13/74

18.88.260 Board of Adjustment order. In considering variances, conditional use permits, special use permits and administrative appeals, the Board of Adjustment shall have all the powers granted to it and to the Zoning Adjustor by the State law and by this Title. Within twenty

(20) days following the termination of a public hearing, the Board of Adjustment shall enter its written order. In making the order, the Board of Adjustment shall include in a written nonverbatim record of the case, the findings of fact upon which the decision is based. If such order grants a variance, conditional use permit or special use permit, it shall so recite the conditions and limitations that are imposed.

5/13/74

18.88.270 Notice of order. Not later than three (3) days, exclusive of Saturdays, Sundays and holidays, following the entering of a written order relating to a variance, conditional use permit, special use permit or administrative appeal, a copy of said order shall be mailed to the parties of record in the case.

5/13/74

18.88.280 Effective date of orders--appeal from Board of Adjustment decision. An order by the Board of Adjustment relating to a variance, conditional use permit, special use permit or administrative appeal shall be final and conclusive unless, within ten (10) days from the date of written order, the original applicant or an adverse party makes application to a court of competent jurisdiction for a writ of certiorari, a writ of prohibition or a writ of mandamus.

5/13/74

adopted December 13, 1971.

18.88.290 Records. Any records certified to the Board of Adjustment by the Zoning Adjustor, an applicant's petition, evidence of notice, all matters submitted as evidence at a public hearing, and the Board of Adjustment's written order, shall become a part of the official records of the Board of Adjustment. "Parties of record" shall include the applicant and all persons who specifically request to be notified of proceedings and orders regarding a case. (Res. adopted December 13, 1971).

18.88.300 Continuing jurisdiction. The office of the Zoning Adjustor shall retain continuing jurisdiction over all variances, conditional use permits and special use permits granted by the Zoning Adjustor and by the Board of Adjustment. Upon a petition being filed by any person with a substantial interest in a variance, conditional use permit or special use permit, or by any public official, the Zoning Adjustor may, in his discretion, call a public hearing for the purpose of reviewing that variance, conditional use permit or special use permit. Notice of the public hearing shall be as provided in Section 18.88.050. Within twenty (20) days following the termination of said public hearing, the Zoning Adjustor shall enter a written order based upon findings of fact which may reaffirm, modify or rescind all or any part of the variance, conditional use permit or special use permit being reviewed. Notice of said order shall be as provided in Section 18.88.150, appeal from said order to the Board of Adjustment shall be as provided in Section 18.88.180 through 18.88.290; PROVIDED that, immediately upon a petition for review being filed, the Zoning Adjustor may, on a showing of good cause, temporarily stay the force and effect of all or any part of the variance, conditional use permit or special use permit in question until such time as such review is finally adjudicated. The Zoning Adjustor shall immediately cause notice of such temporary stay to be posted on all properties affected thereby.

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adopted December 13, 1971.

CHAPTER 18.88VARIANCES, CONDITIONAL USE PERMITS,  
SPECIAL USE PERMITS AND APPEALSSections:

- 18.88.010 Granting variances.
- 18.88.020 Conditions for granting.
- 18.88.030 Granting conditional use permits.
- 18.88.040 Conditions for granting.
- 18.88.050 Notice of hearing.
- 18.88.055 Certification to board of adjustment.
- 18.88.060 Application form.
- 18.88.070 Filing fees.
- 18.88.080 Previous use--Occupancy.
- 18.88.090 Administrative appeals.
- 18.88.100 Administrative appeals--Time limit.
- 18.88.110 Administrative appeals--Notice of hearing.
- 18.88.115 Certification to board of adjustment.
- 18.88.120 Administrative appeals--Authority.
- 18.88.125 Administrative Appeals--Processing.
- 18.88.130 Signatures of neighbors as evidence.
- 18.88.140 Decision--When reached.
- 18.88.150 Notice of decision.
- 18.88.160 Records.
- 18.88.170 Reapplication.
- 18.88.180 Effective date of orders--Appeal from zoning adjustor's decision.
- 18.88.190 Authority of board of adjustment.
- 18.88.200 Notice of public meeting.
- 18.88.210 Public meeting.
- 18.88.220 Public meeting--Order.
- 18.88.230 Fee.
- 18.88.240 Notice of public hearing.
- 18.88.250 Hearing.
- 18.88.260 Board of adjustment order.
- 18.88.270 Notice of order.
- 18.88.280 Effective date of orders--Appeal from board of adjustment decision.
- 18.88.290 Records.
- 18.88.300 Continuing jurisdiction.

\* Prior resolution history: Resolution adopted January 31, 1966; Res. adopted October 23, 1967; Res. adopted February 16, 1971.

18.88.010 Granting variances. The zoning adjustor shall have the authority to grant a variance from the provisions of this title when in the opinion of the zoning adjustor the conditions as set forth in Section 18.88.020 have been found to exist. In such cases, a variance may be granted and conditions imposed, including the posting of bonds or other security, which are in harmony with the general purpose and intent of this title so that the spirit of this title shall be observed, public safety and welfare secured and substantial justice done. (Res. adopted October 16, 1978; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

18.88.020 Conditions for granting. Before any variance may be granted, it shall be shown that:

(1) There are special circumstances applicable to the subject property or to the intended use, such as shape, topography, location or surroundings, that do not apply generally to the other property or class of use in the same vicinity and zone;

(2) Such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in the same vicinity and zone but which because of special circumstances is denied to the property in question;

(3) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located;

(4) The granting of such variance will not adversely affect the comprehensive plan. (Res. adopted June 5, 1972; Res. adopted December 13, 1971).

18.88.030 Granting conditional use permits. Upon application therefor, the zoning adjustor may grant conditional use permits for such use and under such circumstances as set forth in this title. Conditional use permits shall be non-transferable unless the transfer is further approved by the zoning adjustor. (Res. adopted June 5, 1972; Res. adopted December 13, 1971).

18.88.040 Conditions for granting. When considering an application for conditional use permit, the zoning adjustor shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing the use. The conditions may:

(1) Increase requirements in the standards, criteria or policies established by this title;

(2) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, land slides or traffic;

(3) Require structural features or equipment essential to serve the same purpose set forth in (2) above;



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(4) Impose conditions similar to those set forth in items (2) and (3) above as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters, provided, the zoning adjustor may not, in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use nor otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;

(5) Assure that the degree of compatibility made the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;

(6) Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need.

(7) Require the posting of construction and maintenance bonds or other security sufficient to secure to the county the estimated cost of construction and/or installation and maintenance of required improvements. (Res. adopted October 16, 1978; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

18.88.050 Notice of hearing. Upon the filing of an application for a variance, conditional use permit or special use permit by a property owner, the zoning adjustor shall set a time and place for a public hearing to consider the application, as provided in his rules for transaction of business. A written notice thereof shall be mailed to all property owners of record within a three hundred foot radius of the external boundaries of subject property not less than twelve days prior to the hearing. (Res. adopted May 13, 1974; Res. adopted June 5, 1972; Res. adopted December 13, 1971).

18.88.055 Certification to board of adjustment. Notwithstanding Section 18.88.050, upon the filing of an application for a variance, conditional use permit or special use permit by a property owner or by a lessee, the zoning adjustor may, in his discretion, certify the application directly to the board of adjustment for an original hearing for any of the following reasons:

- (1) A conflict of interest on the part of the zoning adjustor;
- (2) Absence or illness of the zoning adjustor;
- (3) A matter which is within the original jurisdiction of the board of adjustment, pursuant to Section 18.88.190(3). (Res. adopted May 13, 1974; Res. adopted June 5, 1972; Res. adopted December 13, 1971).

18.88.060 Application form. The zoning adjustor may prescribe the form in which applications are made for a variance, conditional use permit, special use permit or appeals under Section 18.96.050. He may prepare and provide printed forms for such purpose and may prescribe the type of information to be provided in the application by the applicant. No application shall be accepted unless it complies with such requirements. (Res. adopted September 5, 1978; Res. adopted May 13, 1974; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

18.88.070 Filing Fees. A filing fee of Seventy-Five Dollars (\$75.00) shall be paid upon the filing of an application for a variance or special use permit. A fee of One Hundred Dollars (\$100.00) shall be paid upon the filing of an application for a conditional use permit, except that the fee for conditional use permit applications for excavation and processing of minerals, sanitary landfills and land fill operations shall be Two Hundred Dollars (\$200.00). (Res. adopted July 10, 1978; Res. adopted May 13, 1974; Res. adopted June 4, 1973; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

18.88.080 Previous use--Occupancy. Where prior to July 1, 1962, special authority was granted for the establishment of conducting of a particular use on a particular site and for a special period of time or as set forth in an action then titled "Use and Occupancy," such previous permits are by this section declared to be continued as a conditional use permit without specific time limit provided that if the particular use is such as is not otherwise permitted in the zone in which it is located, such established use and improvements incidental thereto shall be considered under the terms of this title as a nonconforming use. (Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

18.88.090 Administrative Appeals. The hearing examiner shall have the authority to hear and decide appeals from any order, requirement, permit, decision or determination made by an administrative official other than the zoning adjustor or board of adjustment in the administration and enforcement of the Washington State Planning Enabling Act or this title, except that appeals under Section 18.96.050 shall be heard by the zoning adjustor or board of adjustment. (Res. adopted September 5, 1978; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

18.88.100 Administrative appeals--Time limit. Appeals may be taken to the hearing examiner by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of an administrative official. The appeals shall be filed in writing, in duplicate, with the hearing examiner within twenty days of the date of the action being appealed. (Res. adopted September 5, 1978; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

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18.88.110 Administrative appeals--Notice of hearing. Upon the filing of an appeal from an administrative determination, the hearing examiner shall set the time and place at which the matter will be considered. At least a ten day notice of such time and place, together with one copy of the written appeal shall be given to the official whose decision is being appealed. At least ten days notice of the time and place shall also be given to the adverse parties of record in the case. The official from whom the appeal is being taken shall forthwith transmit to the hearing examiner all of the records pertaining to the decision being appealed from, or copies thereof, together with such additional written report as he deems pertinent. (Res. adopted September 5, 1978; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

18.88.120 Administrative appeals--Authority. The hearing examiner may, in conformity with this title, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from, and may take the order, requirement, decision or determination as should be made. To that end, the hearing examiner shall have all the power of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned. (Res. adopted September 5, 1978; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

18.88.125 Administrative Appeals--Processing. Except for appeals under Section 18.96.050, administrative appeals shall be processed in accordance with the provisions of Chapter 2.02 SCC. (Res. adopted September 5, 1978.)

18.88.130 Signatures of neighbors as evidence. If signatures of persons other than the owners of property making the application are offered in support of or in opposition to an application, they may be received as evidence of notice having been served upon them of the pending application or as evidence of their opinion on the pending issue, but they shall in no case infringe upon the free exercise of the powers vested in Snohomish County as represented by the zoning adjustor and board of adjustment. (Res. adopted June 5, 1972; Res. adopted December 13, 1971).

18.88.140 Decision--When reached. Within twenty (20) days following the termination of a public hearing on a variance, conditional use permit, special use permit or an appeal under Section 18.96.050, the zoning adjustor shall enter his written order. In making the order, it shall include in a written, nonverbatim record of the case, the findings of fact upon which the decision is based. If such order grants a variance, conditional use permit or special use permit, it shall also recite the conditions and limitations that are imposed. (Res. adopted September 5, 1978; Res. adopted May 13, 1974; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

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If such order grants a variance, conditional use permit or special use permit, it shall also recite the conditions and limitations that are imposed. (Res. adopted May 13, 1974; Res. adopted June 5, 1972; Res. adopted December 13, 1971).

18.88.150 Notice of decision. Not later than three (3) days, exclusive of Saturdays, Sundays and holidays, following the rendering of a written decision ordering that a variance, conditional use permit, special use permit, or appeal under Section 18.96.050 be granted or denied, a copy of the order shall be mailed to parties of record in the case. (Res. adopted September 5, 1978; Res. adopted May 13, 1974; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

18.88.160 Records. The application filed pursuant to this title, the written order announcing a decision, evidence of notice, and other material submitted as evidence in a case shall become a part of the official records of the office of the zoning adjustor. "Parties of record" shall include the applicant and all persons who specifically request to be notified of proceedings and orders regarding a case. (Res. adopted June 5, 1972; Res. adopted December 13, 1971).

18.88.170 Reapplication. Upon final action as set forth in this chapter in denying an application for variance, conditional use permit or special use permit, neither the office of the zoning adjustor nor the board of adjustment shall accept further filing of an application for substantially the same use within one year from the date of any final denial of an application. (Res. adopted May 13, 1974; Res. adopted June 5, 1972; Res. adopted December 13, 1971).

18.88.180 Effective date of orders--Appeal from zoning adjustor's decision. The order of the zoning adjustor on an application for a variance, conditional use permit, special use permit or an appeal under Section 18.96.050 shall be final and conclusive unless within ten days after the zoning adjustor has entered his written order, a petition for appeal is filed with the board of adjustment. Such petition may be filed by the original applicant, or by opponents of record in the case. The petition for appeal shall consist of a brief statement of the reasons why error is assigned to the zoning adjustor's findings of fact, conclusions, or order. The timely filing of a petition for appeal from an order of the zoning adjustor shall stay the effective date of the order until such time as the appeal is adjudicated by the board of adjustment or is withdrawn. (Res. adopted September 5, 1978; Res. adopted May 13, 1974; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

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18.88.190 Authority of board of adjustment. The board of adjustment, subject to the provisions of this title and the provisions of state law, shall consider the following:

(1) Petitions for appeal from any order of the zoning adjustor relating to variances, conditional use permits and special use permits, provided that an appeal must be filed pursuant to the requirements of Section 18.88.180;

(2) Applications for variances, conditional use permits, special use permits and appeals under Section 18.96.050, which are certified to the board of adjustment by the zoning adjustor for an original hearing for any of the reasons stated in Section 18.88.055;

(3) Applications for variances, conditional use permits, special use permits and appeals under Section 18.96.050, which are filed by the applicant directly with the board of adjustment for an original hearing, and over which the board of adjustment chooses, in its discretion, to exercise its original jurisdiction for any of the following reasons:

(a) A conflict of interest on the part of the zoning adjustor,

(b) A matter directly related to and affecting, or affected by, a prior order of the board of adjustment,

(c) A matter of substantial public interest. (Res. adopted September 5, 1978; Res. adopted September 5, 1978; Res. adopted May 13, 1974; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

18.88.200 Notice of public meeting. Upon a petition for appeal from an order of the zoning adjustor being filed with the board of adjustment, or upon an application being certified by the zoning adjustor to the board of adjustment, or upon an applicant petitioning the board of adjustment to assume original jurisdiction over a case, the board of adjustment shall set a time and place at which the matter will be considered at a public meeting. At least ten days notice of such public meeting shall be given to all parties of record. (Res. adopted June 5, 1972; Res. adopted December 13, 1971).

18.88.210 Public meeting. (1) At a public meeting to consider a petition for appeal from an order of the zoning adjustor the board of adjustment shall review:

(a) The original application form and all attachments;

(b) All exhibits admitted into evidence at the public hearing held before the zoning adjustor;

(c) The zoning adjustor's written order;

(d) The petition for appeal.

The board of adjustment may concur with the findings and conclusions of the zoning adjustor, adopt them as its own, and enter an order identical to that of the zoning

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adjustor; or, the board of adjustment may reject the findings, conclusions and order of the zoning adjustor, in whole or in part, and enter an order calling for a public hearing pursuant to Section 18.88.240.

(2) At a public meeting to consider a matter certified to the board of adjustment by the zoning adjustor the board of adjustment shall review:

(a) The original application form and all attachments,

(b) A written statement by the zoning adjustor setting forth the reasons for certification.

The board of adjustment may accept the zoning adjustor's reasons for certification, and enter an order calling for a public hearing pursuant to Section 18.88.240; or, the board of adjustment may reject the zoning adjustor's reasons for certification, and enter an order remanding the case to the zoning adjustor for public hearing pursuant to Section 18.88.050.

(3) At a public meeting to consider a petition by an applicant for the board of adjustment to assume original jurisdiction the board of adjustment shall review:

(a) The application form and all attachments,

(b) The applicant's petition.

The board of adjustment may accept the applicant's reasons for assuming original jurisdiction over the case, and enter an order calling for a public hearing pursuant to Section 18.88.240; or, the board of adjustment may reject the applicant's reasons for assuming original jurisdiction over the case, and enter an order certifying the case to the zoning adjustor for public hearing pursuant to Section 18.88.050. (Res. adopted June 5, 1972: Res. adopted December 13, 1971).

18.88.220 Public meeting--Order. Not more than forty-five days following the filing of a petition for appeal, certification of application, or petition for original jurisdiction, the board of adjustment shall enter a written order relating thereto. Provided that, the time for entry of an order may be extended with the written consent of the petitioning party, or in the case of certifications, the written consent of the applicant. Not later than three days, exclusive of Saturdays, Sundays and holidays, following the entering of a written order, a copy of the order shall be mailed to all parties of record in the case. (Res. adopted June 5, 1972: Res. adopted December 13, 1971).

18.88.230 Fee. Upon an order being entered by the board of adjustment calling for a public hearing on a

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particular case, the party seeking such hearing shall pay a fee of twenty-five dollars (\$25) if the case involves an application for a variance or special use permit, and seventy-five dollars (\$75) if the case involves an application for a conditional use permit; provided that in cases where the board of adjustment has accepted an application certified to it by the zoning adjustor, no fee in addition to that paid pursuant to Section 18.88.070 shall be required. (Res. adopted May 13, 1974: Res. adopted June 5, 1972: Res. adopted December 13, 1971).

18.88.240 Notice of public hearing. Upon an order being entered by the board of adjustment calling for a public hearing on a particular case, and upon the fee required in Section 18.88.230 being paid, a time and place shall be set for the public hearing, and notice thereof shall be given by the board of adjustment in conformity with the requirements of Section 18.88.050. (Res. adopted June 5, 1972: Res. adopted December 13, 1971).

18.88.250 Hearing. All variance, conditional use permit and special use permit applications before the board of adjustment at public hearings shall be presented as if they were original applications, and the board of adjustment's decision shall be based upon its own findings of fact and conclusions; provided that in cases where an order of the zoning adjustor has been appealed, the zoning adjustor shall certify to the board of adjustment a verbatim record of the testimony of any witness who testified before the zoning adjustor but who will not testify before the board of adjustment; provided further that said witness must place a written request with the zoning adjustor for the preparation of the record not less than twenty (20) days prior to the public hearing before the board of adjustment, and must pay for such preparation at a rate to be set by the zoning adjustor. (Res. adopted May 13, 1974: Res. adopted June 5, 1972: Res. adopted December 13, 1971).

18.88.260 Board of adjustment order. In considering variances, conditional use permits, special use permits and appeals under Section 18.96.050, the board of adjustment shall have all the powers granted to it and to the zoning adjustor by state law and by this title. Within twenty (20) days following the termination of a public hearing, the board of adjustment shall enter its written order. In making the order, the board of adjustment shall include in a written, nonverbatim record of the case, the findings of fact upon which the decision is based. If such order grants a variance or conditional use permit, it shall so recite the conditions and limitations that are imposed. (Res. adopted September 5, 1978; Res. adopted May 13, 1974; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

18.88.270 Notice of order. Not later than three (3) days, exclusive of Saturdays, Sundays and holidays, following the entering of a written order relating to a variance, conditional use permit, special use permit or administrative appeal, a copy of said order shall be mailed to the parties of record in the case. (Res. adopted May 13, 1974: Res. adopted June 5, 1972: Res. adopted December 13, 1971).

18.88.280 Effective date of orders--Appeal from board of adjustment decision. An order by the board of adjustment relating to a variance, conditional use permit, special use permit, or appeal under Section 18.96.050 shall be final and conclusive unless within ten (10) days from the date of the written order, the original applicant or an adverse party makes application to a court of competent jurisdiction for a writ of certiorari, a writ of prohibition or a writ of mandamus. (Res. adopted September 5, 1978; Res. adopted May 13, 1974; Res. adopted June 5, 1972; Res. adopted December 13, 1971.)

18.88.290 Records. Any records certified to the board of adjustment by the zoning adjustor, an applicant's petition, evidence of notice, all matters submitted as evidence at a public hearing, and the board of adjustment's written order, shall become a part of the official records of the board of adjustment. "Parties of record" shall include the applicant and all persons who specifically request to be notified of proceedings and orders regarding a case. (Res. adopted June 5, 1972: Res. adopted December 13, 1971).

18.88.300 Continuing jurisdiction. The office of zoning adjustor shall retain continuing jurisdiction over all variances, conditional use permits and special use permits granted by the zoning adjustor and by the board of adjustment. Upon a petition being filed by any person with a substantial interest in a variance, conditional use permit or special use permit, or by any public official, the zoning adjustor may, in his discretion, call a public hearing for the purpose of reviewing that variance, conditional use permit or special use permit. Notice of the public hearing shall be as provided in Section 18.88.050. Within twenty (20) days following the termination of said public hearing, the zoning adjustor shall enter a written order, based upon findings of fact, which may reaffirm, modify, or rescind all or any part of the variance, conditional use permit or special use permit being reviewed. Notice of said order shall be as provided in Section 18.88.150; appeal from said order to the board of adjustment shall be as provided in Sections 18.88.180 through 18.88.290; provided that, immediately upon a petition for review being filed, the zoning adjustor may, on a showing of good cause, temporarily stay the force and effect of all or any part of the variance,



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conditional use permit or special use permit in question until such time as such review is finally adjudicated. The zoning adjustor shall immediately cause notice of such temporary stay to be posted on all properties affected thereby. (Res. adopted May 13, 1974: Res. adopted June 5, 1972: Res. adopted December 13, 1971).

18.88.310 Hearing examiner acting as zoning adjustor. The hearing examiner shall have all the powers of the zoning adjustor in acting upon a master application submitted pursuant to Section 2.02.120 where such application in part requests issuance of a conditional use permit, special use permit or variance. (Res. adopted September 5, 1978.)

CHAPTER 18.88  
CONDITIONAL USE AND SPECIAL USE  
PERMITS, VARIANCES AND ADMINISTRATIVE APPEALS\*

Sections:

- 18.88.010 Granting variances.
- 18.88.020 Variances - Conditions for granting.
- 18.88.030 Variances - Effect of Hearing Examiner Decision.
- 18.88.040 Granting Conditional Use Permits.
- 18.88.050 Granting Special Use Permits.
- 18.88.060 Conditional and Special Use Permits -  
Conditions for granting.
- 18.88.070 Conditional and Special Use Permits -  
Effect of Hearing Examiner Decision.
- 18.88.080 Previous use--Occupancy.
- 18.88.090 Administrative appeals.
- 18.88.100 Administrative appeals--Time limit.
- 18.88.110 Administrative appeals--Authority.
- 18.88.120 Administrative appeals--Effect of Hearing  
Examiner's Decision.
- 18.88.130 Application form.
- 18.88.140 Filing fees.
- 18.88.150 Processing procedures.
- 18.88.160 Notice of hearing-Variance, Conditional  
or Special Use Permits.
- 18.88.170 Notice of hearing-Administrative appeals.
- 18.88.180 Reapplication.
- 18.88.190 Continuing jurisdiction.
- 18.88.200 Transfer of ownership.
- 18.88.210 Land Use Permit Binder Required.
- 18.88.220 Vacation of Permits/Variances.

18.88.010. Granting variances. Upon application therefor, the hearing examiner shall have the authority to grant a variance from the provisions of this title when in the opinion of the examiner the conditions as set forth in Section 18.88.020 have been found to exist. In such cases, a variance may be granted and conditions imposed, including the posting of bonds or other security, which are in harmony with the general purpose and intent of this title so that the spirit of this title shall be observed, public safety and welfare secured and substantial justice done.

18.88.020. Variances - Conditions for granting. Before any variance may be granted, it shall be shown that:

(1) There are special circumstances applicable to the subject property or to the intended use, such as shape, topography, location or surroundings, that do not apply generally to the other property or class of use in the same vicinity and zone;

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\* Resolution history: Sec. 22 of Ord. adopted December 29, 1980:  
Res. adopted January 31, 1966: Res. Adopted October 23, 1967:  
Res. adopted February 16, 1971.

(2) Such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in the same vicinity and zone but which because of special circumstances is denied to the property in question;

(3) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located;

(4) The granting of such variance will not adversely affect the comprehensive plan.

18.88.030. Variances - Effect of Examiner's Decision. The decision of the examiner on a variance shall be final and conclusive unless within ten (10) days from the date of the examiner's decision, the applicant or an adverse party makes application to a court of competent jurisdiction for a writ of certiorari, a writ of prohibition or a writ of mandamus.

18.88.040. Granting conditional use permits. Upon application therefor, the examiner may grant conditional use permits for such use and under such circumstances as set forth in this title.

18.88.050. Granting Special Use Permits. Upon application therefor, the examiner may grant special use permits under such circumstances as set forth in this title.

18.88.060. Conditional and Special Use Permits - Conditions for granting. When considering an application for a conditional use permit, the examiner shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing the use. The conditions may:

(1) Increase requirements in the standards, criteria or policies established by this title;

(2) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic;

(3) Require structural features or equipment essential to serve the same purpose set forth in (2) above;

(4) Impose conditions similar to those set forth in items (2) and (3) above as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters; provided, the hearing examiner may not, in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use nor otherwise reduce the requirements of this title in matters for which variance is the remedy provided;

(5) Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located.

(6) Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need;

(7) Require the posting of construction and maintenance bonds or other security sufficient to secure to the county the estimated cost of construction and/or installation and maintenance of required improvements.

18.88.070 Conditional and Special Use Permits - Effect of Examiner Decision. The decision of the examiner on a conditional use or special use permit shall be final and conclusive with right of appeal to the council pursuant to Chapter 2.02 SCC. (Sec. 9 of Ord. 85-105 adopted December 4, 1985)

18.88.080 Previous use--Occupancy. Where prior to July 1, 1962, special authority was granted for the establishment of conducting of a particular use on a particular site and for a special period of time or as set forth in an action then titled "Use and Occupancy," such previous permits are by this section declared to be continued as a conditional use permit without specific time limit; provided, that if the particular use is such as is not otherwise permitted in the zone in which it is located, such established use and improvements incidental thereto shall be considered under the terms of this title as a nonconforming use.

18.88.090 Administrative appeals. The examiner shall have the authority to hear and decide appeals from any order, requirement, permit, decision or determination made by the director of the department of community affairs or his designee in the administration and enforcement of provisions of this title.

18.88.100 Administrative appeals--Time limit. Appeals may be taken to the examiner by any person aggrieved, or by any officer, department, board or bureau of the county affected by any decision of the director of the department of community affairs or his designee. The appeals shall be filed in writing, in duplicate, with the department of community affairs within fifteen (15) days of the date of the action being appealed. Upon filing an appeal, a place and time for the hearing not more than thirty (30) days from such notice of appeal shall be set by the department of community affairs.

18.88.110 Administrative appeals--Authority. The examiner may, in conformity with this title or other applicable ordinances, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from, and may rule on the order, requirement, decision or determination as necessary. To that end, the examiner shall have all the power of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned.

18.88.120--18.88.170

18.88.120 Administrative appeals - Effect of Hearing Examiner's Decision. The decision of the examiner on an administrative appeal shall be final and conclusive. Review of the examiner's decision shall be as provided by section 18.88.125 SCC. (Sec. 10 of Ord. 85-105 adopted December 4, 1985)

18.88.125 Judicial Review. Any decision on an administrative appeal shall be reviewable for unlawful or arbitrary and capricious action or non-action by writ of review before the Superior Court of Snohomish County. An action for writ of review may be brought by any person aggrieved by the examiner's decision by making application to the court for such writ within fifteen (15) days of the date of the examiner's decision. The cost of transcription of all records ordered certified by the court for such review shall be borne by the applicant for the writ of review. (Sec. 11 of Ord. 85-105 adopted December 4, 1985)

18.88.130 Application form. The department of community affairs may prescribe the form in which applications are made for a variance, conditional use permit, special use permit or administrative appeal. It may prepare and provide printed forms for such purpose and may prescribe the type of information to be provided in the application by the applicant. No application shall be accepted unless it complies with such requirements.

18.88.140 Filing fees. The filing fees for requests/actions covered by this chapter shall be as follows:

A. Variance	\$175.00
Special use permit	\$175.00
B. Conditional use permit	\$225.00
1) Landfill	\$400.00
2) Mineral extraction/processing	\$400.00
3) Sanitary landfill	\$400.00
C. Administrative Appeals	\$ 50.00

(Sec. 1 of Ord. 81-037 adopted April 29, 1981)

18.88.150 Processing procedures. Variances, conditional use or special use permits and administrative appeals shall be processed in accordance with the provisions of chapter 2.02, Snohomish County Code.

18.88.160 Notice of hearing - Variance - Conditional or Special Use Permits. Upon the filing of an application for a variance, conditional use or special use permit by a property owner, the planning division of the department of planning and community development shall set the time and place for a public hearing to consider the application, as provided for in the examiner's rules of procedure. Notice of the first public hearing for such an application shall be as set forth below:

18.88.160 -- 18.88.190

(1) For all variance applications:

(a) The applicant shall post at least fifteen (15) days prior to the first hearing at least two (2) signs, one sign on each frontage abutting a public right-of-way or at the point of access to the property. Signs for posting shall be provided to the applicant by the county. Such posting shall be evidenced by submittal of a verified statement regarding the date and location of posting.

(b) The county, at least fifteen (15) days prior to the first public hearing, shall mail a notice of the hearing to each property owner of record within three hundred (300) feet of the subject property.

(2) For all conditional or special use permit applications:

(a) The applicant shall post at least fifteen (15) days prior to the first hearing at least two (2) signs, one sign on each frontage abutting a public right-of-way or at the point of access to the property. Signs for posting shall be provided to the applicant by the county. Such posting shall be evidenced by submittal of a verified statement regarding the date and location of posting.

(b) The county, at least fifteen (15) days prior to the first public hearing, shall mail a notice of the hearing to each taxpayer of record within five hundred (500) feet of the boundaries of the subject property. (Sec. 1 of Ord. 85-075 adopted August, 14 1985)

18.88.170 Notice of hearing - Administrative appeals. Upon the filing of an appeal from an administrative determination, the department of community affairs shall set the time and place for a public hearing as provided for in the examiner's rules of procedure. At least fifteen (15) days notice of such time and place together with one copy of the written appeal shall be given to the official whose decision is being appealed, to the appellant and to other known interested parties in the case. The official from whom the appeal is being taken shall forthwith transmit to the examiner all of the records pertaining to the decision being appealed from, or copies thereof, together with such additional written report as he deems pertinent.

18.88.180 Reapplication. Upon final action as set forth in this chapter in denying an application for variance, conditional use or special use permit or administrative appeal, the department of community affairs shall not accept further filing of an application for substantially the same matter within one year from the date of any final denial of an application.

18.88.190 Continuing jurisdiction. The office of the examiner shall retain continuing jurisdiction over all variances and conditional use and special use permits. Upon a petition being filed by any person with a substantial interest in a variance, conditional use or special use permit, or by any public official, the examiner may, in his discretion, call a public hearing for the purpose of reviewing that variance, conditional use or special use permit. Notice of the public hearing shall be as provided in Section 18.88.160. Any such hearing shall be processed in accordance with the provisions of chapter 2.02, Snohomish County Code; provided that, immediately upon a petition for review being accepted by the examiner,

18.88.200--18.88.220

the examiner may for good cause shown direct that the department of community affairs issue a stop work order to temporarily stay the force and effect of all or any part of the variance, conditional use or special use permit in question until such time as such review is finally adjudicated. The examiner's decision, after hearing, shall be final subject to appeal as provided for in Section 18.88.030 and 18.88.070 of this chapter and it may reaffirm, modify or rescind all or any part of the variance, conditional use or special use permit being reviewed.

18.88.200 Transfer of ownership. A conditional use or special use permit or variance runs with the land; compliance with the conditions of any such permit or variance is the responsibility of the current owner of the property, whether that be the applicant or a successor. No permit for which a bond or other surety is required shall be considered valid during any time in which the required bond or surety is not posted.

18.88.210 Land Use Permit Binder Required. The recipient of any conditional or special use permit or variance shall file a land use permit binder on a form provided by the examiner with the county auditor within the time period stipulated by such permit or variance. The permit or variance shall not be effective until such binder has been filed. The binder shall serve both as an acknowledgement of and agreement to abide by the terms and conditions of the permit or variance and as a notice to prospective purchasers of the existence of the permit or variance. (Sec. 5 of Ord. 82-065 adopted July 21, 1982).

18.88.220 Vacation of Permits/Variations. Any conditional or special use permit or variance issued pursuant to this chapter may be vacated upon county approval by the current landowner provided that:

- (1) The use authorized by the permit/variance does not exist and is not actively being pursued; or
- (2) The use has been terminated and no violation of the terms and conditions of the permit exists.

Requests to vacate a permit shall be made in writing to the office of community planning which shall determine if the above conditions are present prior to authorizing the vacation. Vacation of any permit/variance shall be documented by the filing of a notice of land use permit vacation on a form provided by the office of community planning with the county auditor. (Sec. 6 of Ord. 82-065 adopted July 21, 1982).

CHAPTER 18.72

PROCEDURES FOR CONDITIONAL, SPECIAL, AND TEMPORARY USE  
PERMITS, VARIANCES AND ADMINISTRATIVE APPEALS

Sections:

- 18.72.010 Granting variances.
- 18.72.020 Variances - conditions for granting.
- 18.72.030 Variances - effect of hearing examiner's decision.
- 18.72.040 Granting conditional use permits.
- 18.72.050 Granting special use permits.
- 18.72.060 Conditional and special use permits - conditions for granting.
- 18.72.070 Conditional and special use permits - effect of hearing examiner's decision.
- 18.72.080 Previous use--occupancy.
- 18.72.090 Administrative appeals.
- 18.72.100 Administrative appeals--time limit.
- 18.72.110 Administrative appeals--authority.
- 18.72.120 Administrative appeals--effect of hearing examiner's decision.
- 18.72.125 Judicial review.
- 18.72.130 Application form.
- 18.72.140 Filing fees.
- 18.72.150 Processing procedures.
- 18.72.155 Processing procedure - temporary uses.
- 18.72.160 Notice of hearing-variance, conditional or special use permits.
- 18.72.170 Notice of hearing-administrative appeals.
- 18.72.175 Notice provisions - temporary uses.
- 18.72.180 Reapplication.
- 18.72.190 Continuing jurisdiction.
- 18.72.195 Continuing jurisdiction - temporary uses.
- 18.72.200 Transfer of ownership.
- 18.72.210 Land use permit binder required.
- 18.72.220 Vacation of permits/variances.

18.72.010 Granting variances. Upon application therefor, the hearing examiner shall have the authority to consider a variance from the provisions of this title when the conditions as set forth in SCC 18.72.020 have been found to exist, and the examiner may grant a variance and impose conditions when the request is found to be in harmony with the general purpose and intent of this title.

18.72.020 Variances - conditions for granting. Before any variance may be granted, it shall be shown that:

- A. There are special circumstances applicable to the subject property or to the intended use, such as shape, topography, location or surroundings, that do not apply generally to the other property or class of use in the same vicinity and zone;
- B. Such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in



the same vicinity and zone but which because of special circumstances is denied to the property in question;

C. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located; and

D. The granting of such variance will not adversely affect the comprehensive plan.

18.72.030 Variances - effect of hearing examiner's decision. The decision of the hearing examiner's on a variance shall be final and conclusive. Within ten (10) days from the date of the examiner's decision, the applicant or an adverse party may appeal to a court of competent jurisdiction by application for a writ of certiorari, a writ of prohibition or a writ of mandamus.

18.72.040 Granting conditional use permits. Upon application therefor, the examiner may grant conditional use permits under the circumstances set forth in this title. Conditional uses are allowed in zones as listed in SCC 18.32.040.

18.72.050 Granting special use permits. Upon application therefor, the examiner may grant special use permits under the circumstances set forth in this title.

18.72.060 Conditional and special use permits - conditions for granting. When considering an application for a conditional use permit, the hearing examiner shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing the use. The conditions may:

A. Increase requirements in the standards, criteria or policies established by this title;

B. Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides or traffic;

C. Require structural features or equipment essential to serve the same purpose set forth in (B) above;

D. Impose conditions similar to those set forth in items (B) and (C) above as deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters; provided, the hearing examiner may not, in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use nor otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;

E. Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;

F. Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of

noise, smoke, dust, fumes, vibration, odors, and hazard or public need; and

G. Require the posting of construction and maintenance bonds or other security sufficient to secure to the county the estimated cost of construction and/or installation and maintenance of required improvements.

18.72.070 Conditional and special use permits - effect of hearing examiner's decision. The decision of the hearing examiner on a conditional use or special use permit shall be final and conclusive with right of appeal to the council pursuant to SCC Chapter 2.02.

18.72.080 Previous use--occupancy. Where prior to July 1, 1962, special authority was granted for establishing of conducting a particular use on a particular site and for a special period of time or as set forth in an action then titled "Use and Occupancy," such previous permits are by this section declared to be continued as a conditional use permit without specific time limit; provided, that if the particular use is such as is not otherwise permitted in the zone in which it is located, such established use and improvements incidental thereto shall be considered under the terms of this title as a nonconforming use.

18.72.090 Administrative appeals. The examiner shall have the authority to hear and decide appeals from any order, requirement, permit, decision or determination made by the director of the department of planning and community development or his designee in the administration and enforcement of provisions of this title.

18.72.100 Administrative appeals--time limit. Appeals may be taken to the examiner by any person aggrieved, or by any officer, department, board or bureau of the county affected by any decision of the director of the department of planning and community development or his designee. The appeals shall be filed in writing, in duplicate, with the community development division within fifteen (15) days of the date of the action being appealed. Upon filing an appeal, a place and time for the hearing not more than thirty (30) days from such notice of appeal shall be set by the department of planning and community development.

18.72.110 Administrative appeals--authority. The examiner may, in conformity with this title or other applicable ordinances, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from, and may rule on the order, requirement, decision or determination as necessary. To that end, the examiner shall have all the power of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned.

18.72.120 Administrative appeals - effect of hearing examiner's decision. The decision of the examiner on an administrative appeal shall be final and conclusive. Review of the examiner's decision shall be as provided by SCC 18.72.125.

18.72.125 Judicial Review. Any decision on an administrative appeal shall be reviewable for unlawful or arbitrary and capricious action or non-action by writ of review before the Superior Court of Snohomish County. An action for writ of review may be brought by any person aggrieved by the examiner's decision by making application to the court for such writ within fifteen (15) days of the date of the examiner's decision. The cost of transcription of all records ordered certified by the court for such review shall be borne by the applicant for the writ of review.

18.72.130 Application form. The planning division may prescribe the form in which applications are made for a variance, conditional use permit, special use permit or administrative appeal. It may prepare and provide printed forms for such purpose and may prescribe the type of information to be provided in the application by the applicant. No application shall be accepted unless it complies with such requirements.

18.72.140 Filing fees. The filing fees for requests/actions covered by this chapter shall be as follows:

A. Variance	\$175.00
B. Special use permit	\$175.00
C. Conditional use permit	\$225.00
1) Landfill	\$400.00
2) Mineral extraction/processing	\$400.00
3) Sanitary landfill	\$400.00
D. Temporary use permit	\$150.00
E. Administrative Appeals	\$ 50.00

18.72.150 Processing procedures. Variances, conditional use or special use permits and administrative appeals shall be processed in accordance with the provisions of SCC Chapter 2.02.

18.72.155 Processing procedure - temporary uses. Applications for temporary emergency uses or structures, and for temporary dwellings for relatives, shall be made in writing to the planning manager. The manager may grant those applications which meet the conditions listed in SCC 18.32.040. The manager may also impose special conditions to assure compatibility with surrounding properties.

18.72.160 Notice of hearing - variance - conditional or special use permits. Upon the filing of an application for a variance, conditional use or special use permit by a property owner, the planning division of the department of planning and community development shall set the time and place for a public hearing to consider the application, as provided for in the examiner's rules of procedure. Notice of the first public hearing for such an application shall be as set forth below:

A. For all variance applications:

1) The applicant shall post at least fifteen (15) days prior to the first hearing at least two (2) signs, one sign on each frontage abutting a public right-of-way or at the point of access to the property. Signs for posting shall be provided to the applicant by the county. Such posting shall be evidenced by submittal of a verified statement regarding the date and location of posting.

2) The county, at least fifteen (15) days prior to the first public hearing, shall mail a notice of the hearing to each property owner of record within three hundred (300) feet of the subject property.

B. For all conditional or special use permit applications:

1) The applicant shall post at least fifteen (15) days prior to the first hearing at least two (2) signs, one sign on each frontage abutting a public right-of-way or at the point of access to the property. Signs for posting shall be provided to the applicant by the county. Such posting shall be evidenced by submittal of a verified statement regarding the date and location of posting.

2) The county, at least fifteen (15) days prior to the first public hearing, shall mail a notice of the hearing to each taxpayer of record within five hundred (500) feet of the boundaries of the subject property.

18.72.170 Notice of hearing - administrative appeals. Upon the filing of an appeal from an administrative determination, the planning division shall set the time and place for a public hearing as provided for in the examiner's rules of procedure. At least fifteen (15) days notice of such time and place together with one (1) copy of the written appeal shall be given to the official whose decision is being appealed, to the appellant and to other known interested parties in the case. The official from whom the appeal is being taken shall forthwith transmit to the examiner all of the records pertaining to the decision being appealed from, or copies thereof, together with such additional written report as he deems pertinent.

18.72.175 Notice provisions - temporary uses. Notice of the manager's decision approving a temporary use permitted under the provisions of SCC 18.72.155 shall be mailed to property owners of record within three hundred (300) feet of the subject property, which notice shall state the manner of administratively appealing such a determination pursuant to SCC 18.72.100.

18.72.180 Reapplication. Upon final action as set forth in this chapter in denying an application for variance, conditional use or special use permit or administrative appeal, the planning division shall not accept further filing of an application for substantially the same matter within one year from the date of any final denial of an application.

18.72.190 Continuing jurisdiction. The office of the examiner shall retain continuing jurisdiction over all variances and conditional use and special use permits. Upon a petition being filed by any person with a substantial interest in a variance, conditional use or special use permit, or by any public official, the examiner

may, in his discretion, call a public hearing for the purpose of reviewing that variance, conditional use or special use permit. Notice of the public hearing shall be as provided in SCC 18.72.160. Any such hearing shall be processed in accordance with the provisions of SCC Chapter 2.02; provided that, immediately upon a petition for review being accepted by the examiner, the examiner may for good cause shown, direct that the department of planning and community development issue a stop work order to temporarily stay the force and effect of all or any part of the variance, conditional use or special use permit in question until such time as such review is finally adjudicated. The examiner's decision, after hearing, shall be final subject to appeal as provided for in SCC 18.72.030 and SCC 18.72.070 of this chapter and it may reaffirm, modify or rescind all or any part of the variance, conditional use or special use permit being reviewed.

18.72.195 Continuing jurisdiction - temporary uses. The planning director shall retain continuing jurisdiction over all temporary uses, and may for good cause modify or revoke any permit issued under the authority of this chapter.

18.72.200 Transfer of ownership. A conditional use or special use permit or variance runs with the land; compliance with the conditions of any such permit or variance is the responsibility of the current owner of the property, whether that be the applicant or a successor. No permit for which a bond or other surety is required shall be considered valid during any time in which the required bond or surety is not posted.

18.72.210 Land use permit binder required. The recipient of any conditional or special use permit or variance shall file a land use permit binder on a form provided by the examiner with the county auditor within the time period stipulated by such permit or variance. The permit or variance shall not be effective until such binder has been filed. The binder shall serve both as an acknowledgement of and agreement to abide by the terms and conditions of the permit or variance and as a notice to prospective purchasers of the existence of the permit or variance.

18.72.220 Vacation of permits/variances. Any conditional or special use permit or variance issued pursuant to this chapter may be vacated upon county approval by the current landowner provided that:

- A. The use authorized by the permit/variance does not exist and is not actively being pursued; or
- B. The use has been terminated and no violation of the terms and conditions of the permit exists.

Requests to vacate a permit shall be made in writing to the planning division which shall determine if the above conditions are present prior to authorizing the vacation. Vacation of any permit/variance shall be documented by the filing of a notice of land use permit vacation on a form provided by the planning division with the county auditor.

positions and functions within the department; PROVIDED, That any budget transfers required by such actions are approved by the council; and PROVIDED FURTHER, That personnel assignments and changes shall be made in conformance with the personnel rules and policies of Snohomish county. (Ord. 82-130 § 2, adopted December 10, 1982).

**2.01.070 Severability.**

If any provision of this chapter is held invalid, the remainder of the chapter shall not be affected. (Ord. 82-130 § 2, adopted December 10, 1982).

**2.01.080 Effective date.**

This chapter shall be effective on January 1, 1983. (Ord. 82-130 § 2, adopted December 10, 1982).

**Chapter 2.02**

**HEARING EXAMINER**

Sections:

- 2.02.010 Purpose.
- 2.02.020 Creation of hearing examiner.
- 2.02.030 Appointment and terms.
- 2.02.040 Qualifications.
- 2.02.050 Removal.
- 2.02.060 Freedom from improper influence.
- 2.02.070 Conflict of interest.
- 2.02.080 Organization.
- 2.02.090 Rules.
- 2.02.100 Powers.
- 2.02.110 Applications.
- 2.02.120 Master application.
- 2.02.125 Procedures for appeals within the examiner's jurisdiction.
- 2.02.130 Report of department.
- 2.02.140 Open record hearings.
- 2.02.150 Examiner's decision.
- 2.02.160 Notice of examiner's decision.
- 2.02.165 Definitions.
- 2.02.167 Reconsideration by hearing examiner.
- 2.02.175 Appeal to county council from examiner's decision.
- 2.02.185 Clerical mistakes — Authority to correct.
- 2.02.190 Effect of council action.
- 2.02.195 Appeal to court from examiner's decision.
- 2.02.200 Examiner's report to council and planning commission.
- 2.02.210 Interlocal agreements.
- 2.02.215 Severability.

**2.02.010 Purpose.**

The purpose of this chapter is to establish a quasi-judicial hearing system which will ensure procedural due process and appearance of fairness in regulatory hearings; provide an efficient and effective hearing process for quasi-judicial matters; and comply with state laws regarding quasi-judicial land use hearings. (Ord. 80-115 § 2, adopted December 29, 1980; Amended Ord. 96-003, § 2, Feb. 21, 1996, Effective April 1, 1996).

**2.02.020 Creation of hearing examiner.**

Pursuant to those powers inherent in the home rule charter county, the office of Snohomish county hearing examiner, hereinafter referred to as examiner, is hereby created. The examiner shall interpret, review and implement land use regulations as provided by ordinance and may perform

such other quasi-judicial functions as are delegated by ordinance. Unless the context requires otherwise, the term examiner as used herein shall include deputy examiners and examiners pro tem. (Ord. 80-115 § 1, adopted December 29, 1980).

#### **2.02.030 Appointment and terms.**

The council shall appoint the examiner and any deputy examiners for terms which shall initially expire one year following the date of original appointment and thereafter expire two years following the date of each reappointment. The council may also by professional service contract appoint for terms and functions deemed appropriate by the council, examiners pro tem to serve in the event of absence or inability to act of the examiner or deputy examiners. (Ord. 80-115 § 1, adopted December 29, 1980; Amended Ord. 00-008, § 1, March 29, 2000, Eff date April 10, 2000).

#### **2.02.040 Qualifications.**

Examiners shall be appointed solely with regard to their qualifications for the duties of their office and will have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings on regulatory enactments and to discharge such other functions conferred upon them. Examiners shall hold no other elective or appointive office or position in county government. (Ord. 80-115 § 1, adopted December 29, 1980).

#### **2.02.050 Removal.**

An examiner may be removed from office for cause by the affirmative vote of the majority of the council. (Ord. 80-115 § 1, adopted December 29, 1980).

#### **2.02.060 Freedom from improper influence.**

No person, including county officials, elected or appointed, shall attempt to influence an examiner in any matter pending before him, except at a public hearing duly called for such purpose, or to interfere with an examiner in the performance of his duties in any other way; PROVIDED, That this section shall not prohibit the county prosecuting attorney from rendering legal service to the examiner upon request. (Ord. 80-115 § 1, adopted December 29, 1980).

#### **2.02.070 Conflict of interest.**

No examiner shall conduct or participate in any

hearing, decision or recommendation in which the examiner has a direct or indirect substantial financial or familial interest or concerning which the examiner has had substantial prehearing contacts with proponents or opponents. Nor, on appeal from an examiner decision, shall any member of the council who has such an interest or has had such contacts participate in consideration thereof. (Ord. 80-115 § 1, adopted December 29, 1980).

#### **2.02.080 Organization.**

The office of the examiner shall be under the administrative supervision of the examiner and shall be separate and not a part of the executive branch and shall be considered a part of the county council support staff for purposes of budget consideration. (Ord. 80-115 § 1, adopted December 29, 1980).

#### **2.02.090 Rules.**

The examiner shall have the power to adopt and amend rules governing the scheduling and conduct of hearings and other procedural matters related to the duties of his or her office. Such rules may provide for cross examination of witnesses. The examiner shall within five days after adoption or amendment of any such rule transmit a copy of such rule to the clerk of the council for council review, which rule shall remain in effect unless rejected or modified by the council. The council may by motion modify or reject the rule. The examiner shall incorporate any such action within ten days after adoption of the motion. (Ord. 80-115 § 1, adopted December 29, 1980; Amended Ord. 00-008, § 2, March 29, 2000, Eff date April 10, 2000).

#### **2.02.100 Powers.**

The examiner shall have authority to:

- (1) Receive and examine available information,
- (2) Conduct public hearings and prepare a record thereof,
- (3) Administer oaths and affirmations,
- (4) Examine witnesses, PROVIDED That no person shall be compelled to divulge information which he or she could not be compelled to divulge in a court of law,
- (5) Regulate the course of the hearing,
- (6) Make and enter decisions,
- (7) At the examiner's discretion, hold conferences for the settlement or simplification of issues and/or for establishment of special hearing procedures,

(8) Dispose of procedural requests or similar matters,

(9) Issue summary orders as provided for in SCC 2.02.125 and in supplementary proceedings, and

(10) Take any other action authorized by or necessary to carry out this chapter.

The above authorities may be exercised on all matters for which jurisdiction is assigned either by county ordinance or by other legal action of the county or its elected officials. The examiner's decision shall be final and conclusive and may be reviewable by the council, the shorelines hearings board or court, as applicable. The nature of the examiner's decision shall be as specified in this chapter and in each ordinance which grants jurisdiction. (Ord. 80-115 § 1, adopted December 29, 1980; Amended Ord. 85-105, § 1, December 4, 1985; Amended Ord. 93-077, Sept. 8, 1993, Eff date Jan. 1, 1994; Amended Ord. 96-003, § 3, Feb. 21, 1996, Eff date April 1, 1996).

#### **2.02.110 Applications.**

Applications for permits or approvals within the jurisdiction of the examiner shall be presented to the appropriate county department as specified by the ordinance governing the application. The department of planning and development services shall be responsible for assigning and/or coordinating hearing dates and assuring that due notice of public hearing is given for each application, which notice shall be in accordance with the statute or ordinance governing the application. (Ord. 80-115 § 1, adopted December 29, 1980; Amended Ord. 85-105, § 2, December 4, 1985; Ord. 95-004, § 3, Feb. 15, 1995, Eff date Feb. 27, 1995).

#### **2.02.120 Master application.**

Any person proposing a land use project which would require more than one of the permits or approvals over which the examiner has jurisdiction, may submit a master application to the department of planning and development services on forms furnished by the department containing all necessary information. The master application shall thereafter be jointly processed by the department and the examiner subject to the most lengthy time limitation applicable to any of the required permits or approvals. If the examiner's decision on any of the required permits or approvals would be final with right of appeal to the council, then the decision of the examiner on the master application shall be final with right of appeal to the council; PROVIDED, That decisions issued pursuant to

Title 21 SCC (shoreline management permit decisions) shall be appealable directly to the state shorelines hearings board pursuant to chapter 90.58 RCW, notwithstanding their incorporation into a master application decision. (Ord. 80-115 § 1, adopted December 29, 1980; Amended Ord. 85-105, § 3, December 4, 1985; Amended Ord. 93-077, Sept. 8, 1993, Eff date Jan. 1, 1994; Ord. 95-004, § 4, Feb. 15, 1995, Eff date Feb. 27, 1995).

#### **2.02.125 Procedures for appeals within the examiner's jurisdiction.**

Administrative appeals over which the examiner has jurisdiction shall be subject to the following procedural requirements:

(1) Appeals shall be addressed to the hearing examiner but shall be filed in writing with the department of planning and development services within 14 calendar days of the date of action or, in those cases requiring personal or certified mail service, the date of service of the administrative action being appealed. Appeals shall be accompanied by a filing fee in the amount of \$100.00; PROVIDED, That the filing fee shall not be charged to a department of the county or to other than the first appellant; and PROVIDED, FURTHER, That the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of procedural defect such as but not limited to untimely filing, lack of standing, facial lack of merit, etc.

(2) An appeal must contain the items set forth in the following subsections in order to be complete. The examiner, if procedural time limitations allow, may allow an appellant not more than 15 days to perfect an otherwise timely filed appeal if such appeal is incomplete in some manner.

(a) Specific identification of the order, permit, decision, determination or other action being appealed (including the county's file number whenever such exists). A complete copy of the document being appealed must be filed with the appeal;

(b) Specific identification of the county code provision which authorizes the appeal;

(c) The specific grounds upon which the appellant relies, including a concise statement of the factual reasons for the appeal and, if known, identification of the policies, statutes, codes, or regulations that the appellant claims are violated. In the case of appeals filed pursuant to Title 23 SCC, a specific listing of the environmental elements alleged to be inadequately or inappropri-



ately addressed in the environmental document and the reasons therefor shall be included;

(d) The name, mailing address and daytime telephone number of each appellant together with the signature of at least one of the appellants or of the attorney for the appellant(s), if any;

(e) The name, mailing address, daytime telephone number and signature of the appellant's agent or representative, if any; and

(f) The required filing fee.

(3) Timely filing of an appeal shall stay the effect of the order, permit, decision, determination or other action being appealed until the appeal is finally disposed of by the examiner or withdrawn; PROVIDED, That filing of an appeal from the

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denial of a permit shall not stay such denial. Failure to file a timely and complete appeal shall constitute waiver of all rights to an administrative appeal under county code.

(4) No new appeal issues may be raised or submitted after the close of the time period for filing of the original appeal.

(5) The department of planning and development services shall forward the appeal to the examiner's office within three working days of its filing.

(6) The examiner's office, within two working days of receipt of the appeal, shall send written notice of the filing of the appeal to the department whose decision has been appealed (hereinafter referred to as the "respondent"); PROVIDED, That such notice is not required when the department of planning and development services is the respondent.

(7) The examiner's office, within three working days after receipt of the appeal, shall send written notice of the filing of the appeal by first class mail, to the person named in an order or to the person who initially sought the permit, decision, determination or other action being appealed, whenever the appeal is filed by other than such person.

(8) The examiner may summarily dismiss an appeal in whole or in part without hearing if the examiner determines that the appeal is untimely, incomplete, without merit on its face, frivolous, beyond the scope of the examiner's jurisdiction or brought merely to secure a delay. The examiner may also summarily dismiss an appeal if he/she finds, in response to a challenge raised by the respondent and/or by the permit applicant and after allowing the appellant a reasonable period in which to reply to the challenge, that the appellant lacks legal standing to appeal. Except in extraordinary circumstances, summary dismissal orders shall be issued within 15 days following receipt of either a complete appeal or a request for issuance of such an order, whichever is later.

(9) Appeals shall be processed by the examiner as expeditiously as possible, giving proper consideration to the procedural due process rights of the parties. An open record appeal hearing shall be held before a final decision is issued unless the summary dismissal provisions of subsection (8), above, are utilized or the appeal is withdrawn. The examiner may consolidate multiple appeals of the same action for hearing and decision making purposes where to do so would facilitate expeditious and thorough consideration of the appeals

without adversely affecting the due process rights of any of the parties.

(10) Notice of open record appeal hearings conducted pursuant to this section, containing at a minimum the information required in SCC 32.50.060(3)(b), (d) and (h), shall be given as provided below not less than 15 calendar days prior to the hearing:

(a) Except where notice has already been given pursuant to the combined notice provisions of SCC 32.50.080, the examiner's office shall give notice of all open record appeal hearings by first class mail (unless otherwise required herein) to:

- (i) The appellant;
- (ii) The appellant's agent/representative, if any; and
- (iii) The respondent (by interoffice mail); and

(iv) To the person named in an order or to the person who initially sought the permit, decision, determination or other action being appealed, whenever the appeal is filed by other than such person;

(b) The department of planning and development services shall give notice of open record appeal hearings arising from Title 20 SCC:

(i) In the same manner as required by SCC 32.50.060(4) for hearings on preliminary subdivision applications; and

(ii) By first class mail to parties of record as defined by SCC 2.02.165(1).

(c) The department of planning and development services shall give notice of open record appeal hearings arising from Title 23 SCC by first class mail to:

(i) Parties of record as defined by SCC 2.02.165;

(ii) Agencies with jurisdiction as disclosed by documents in the appeal file; and

(iii) All taxpayers of record and known site addresses within 500 feet of any boundaries of the property subject to the appeal; PROVIDED, That the mailing radius for written notice shall correspond to the mailing radius required for the notice of hearing of any discretionary permit or action associated with the environmental document under appeal where such mailing radius is greater than 500 feet.

(d) The examiner's office shall give notice of open record appeal hearings other than those covered by subsections (b) and (c) above, by first class mail to parties of record as defined by SCC 2.02.165.

(11) Notices required by the above subsections shall be deemed adequate where a good-faith

effort has been made by the county to identify and mail notice to each person entitled thereto. Notices mailed pursuant to the above subsections shall be deemed received by those persons named in an affidavit of mailing executed by the person designated to mail the notices. The failure of any person to actually receive the notice shall not invalidate any action.

(12) The open record appeal hearing and examiner consideration of the appeal shall be limited solely to the issues identified by the appellant pursuant to the above subsections. (Added Amended Ord. 93-077, Sept. 8, 1993, Eff date Jan. 1, 1994; Ord. 95-004, § 5, Feb. 15, 1995, Eff date Feb. 27, 1995; Amended Ord. 95-032, § 1, June 28, 1995, Eff date July 20, 1995; Amended Ord. 96-003, § 4, Feb. 21, 1996, Eff date April 1, 1996; Amended Ord. 97-057, § 1, July 2, 1997, Eff date July 17, 1997; Amended Ord. 97-075, § 1, Sept. 24, 1997, Eff date Oct. 8, 1997).

#### **2.02.130 Report of department.**

(1) Where the open record hearing to be conducted before the examiner concerns a matter evolving from a land use statute or ordinance, the department of planning and development services shall coordinate and assemble the reviews of the other county departments and governmental agencies having an interest in the subject application/appeal and shall prepare a report summarizing the factors involved and the department's findings and recommendations.

(2) Where the open record hearing to be conducted before the examiner concerns a matter evolving from a statute or ordinance other than one dealing with land use matters, the department involved shall be responsible for preparing a report summarizing the factors involved and the department's findings and recommendations.

(3) At least seven calendar days prior to the scheduled open record hearing, the report shall be filed with the examiner and copies thereof shall be mailed by the preparing department to the applicant/appellant and made available for public inspection. Copies thereof shall be provided to interested persons upon payment of reproduction costs. (Ord. 80-115 § 1, adopted December 29, 1980; Amended Ord. 85-105, § 4, December 4, 1985; Amended Ord. 93-077, Sept. 8, 1993, Eff date Jan. 1, 1994; Ord. 95-004, § 6, Feb. 15, 1995, Eff date Feb. 27, 1995; Amended Ord. 96-003, § 5, Feb. 21, 1996, Eff date April 1, 1996).

#### **2.02.140 Open record hearings.**

(1) Where a public hearing is required by statute or ordinance, the examiner shall hold at least one open record hearing prior to rendering a decision on any such matter. All testimony at any such hearing shall be taken under oath. Notice of the time and place of the open record hearing shall be given as required by county ordinance. At the commencement of the hearing the examiner shall give oral notice of the opportunity to become a party of record as provided for in SCC 2.02.165.

(2) Each person participating in an open record hearing shall have the following rights, among others:

(a) To call, examine and cross-examine witnesses (subject to reasonable limitation by the examiner in accordance with the examiner's adopted rules of procedure) on any matter relevant to the issues of the hearing;

(b) To introduce documentary and physical evidence;

(c) To rebut evidence against him/her; and

(d) To represent him/herself or to be represented by anyone of his choice who is lawfully permitted to do so. (Ord. 80-115 § 1, adopted December 29, 1980; Amended Ord. 84-116, November 7, 1984; Amended Ord. 90-174, § 1, November 14, 1990; Amended Ord. 93-077, Sept. 8, 1993, Eff date Jan. 1, 1994; Amended Ord. 96-003, § 6, Feb. 21, 1996, Eff date April 1, 1996).

#### **2.02.150 Examiner's decision.**

A final decision shall be issued within 15 calendar days of the conclusion of a hearing, but not later than 90 calendar days after the filing of a complete appeal, or for predecision hearings, not later than 120 days after an underlying application is determined to be complete, unless the applicant (or appellant where there is no underlying applica-

tion) agrees in writing to extend the time period, the time period has been extended under some other authority, or a summary dismissal order has been issued. The final decision shall include at least the following:

(1) Findings based upon the record and conclusions therefrom which support the decision. Such findings and conclusions shall also set forth the manner by which the decision would carry out and conform to the county's comprehensive plan, other official policies and objectives and land use regulatory enactments (land use applications only);

(2) A decision:

(a) On the application which may be to grant, grant in part, return to the applicant for modification, deny without prejudice, deny or grant with such conditions, modifications, and/or restrictions as the examiner finds necessary to make the application compatible with its environment, the comprehensive plan, other official policies and objectives, and land use regulatory enactments as applicable, or

(b) On the appeal which may, in conformity with applicable statutes and/or ordinances, reverse or affirm, in whole or in part, or modify the order, permit, decision, determination or other action appealed from. To that end, the examiner shall have full authority to exercise all the power of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned, or

(c) On the county road or right-of-way establishment or vacation, which shall be a recommendation to approve or not approve the motion;

(3) A statement which indicates the procedure for reconsideration, if applicable, and appeal of an examiner decision. (Ord. 80-115 § 1, adopted December 29, 1980; Amended Ord. 85-105, § 5, 1985; Amended Ord. 90-088, July 28, 1990; Amended Ord. 93-077, Sept. 8, 1993, Eff date Jan. 1, 1994; Amended Ord. 96-003, § 7, Feb. 21, 1996, Eff date April 1, 1996; Amended Ord. 96-028, § 2, June 12, 1996, Eff date June 29, 1996).

#### 2.02.160 Notice of examiner's decision.

Copies of examiner decisions shall be distributed as follows within the time period allowed by SCC 2.02.150:

(1) Mailed by regular mail or inter-office mail, as appropriate, to the applicant and other parties of record in the case; and

(2) Mailed by certified mail, return receipt requested, to the appellant in appeal cases. (Ord. 80-115 § 1, adopted December 29, 1980; Amended Ord. 90-174, § 2, November 14, 1990; Amend-

ed Ord. 93-077, Sept. 8, 1993, Eff date Jan. 1, 1994; Amended Ord. 96-003, § 8, Feb. 21 1996, Eff date April 1, 1996).

#### 2.02.165 Definitions.

Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Parties of record" means for each application/appeal:

(a) The applicant/appellant;

(b) All persons, county departments and/or public agencies who testified at the open record hearing;

(c) All persons, county departments and/or public agencies who individually submitted written comments concerning the specific matter into the hearing record prior to the close of the open record hearing (excluding persons who have only signed petitions or mechanically produced form letters); and

(d) All persons, county departments and/or public agencies who specifically request notice of decision by entering their name and mailing address on a register provided for such purpose at the open record hearing.

A party of record to an application/appeal shall remain such through subsequent county proceedings involving the same application/appeal; PROVIDED A new parties of record register shall be started whenever an application/appeal comes on for supplementary hearing eighteen or more months after the most recent examiner decision was issued. The county may cease mailing material to any party of record whose mail is returned by the postal service as undeliverable.

(2) "Open record hearing" means a hearing that creates the record on a project permit application/appeal through testimony and submission of evidence and information.

(3) "Closed record appeal" means an administrative appeal of a decision on a project permit application following an open record hearing. The closed record appeal hearing shall be conducted on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed. (Added Ord. 90-174, § 3, November 14, 1990; Amended Ord. 92-075, July 22, 1992; Amended Ord. 96-003, § 9, Feb. 21, 1996, Eff date April 1, 1996).

### 2.02.167 Reconsideration by hearing examiner.

(1) A time period for any party of record to seek reconsideration before filing an appeal pursuant to SCC 2.02.175, 2.02.195 or 21.16.090 shall be provided if and only if the applicant (or appellant where there is no underlying applicant) prior to the close of the open record hearing signs a written request for a reconsideration period and waiver of the timeline for decision issuance. Any such request shall be granted by the examiner. The provisions of this section shall apply once such a request is granted.

(2) Any party of record may file a written petition for reconsideration with the hearing examiner within 10 calendar days following the date of the examiner's written decision. The timely filing of a petition for reconsideration shall stay the effective date of the examiner's decision until such time as the petition has been disposed of by the examiner.

(3) The grounds for seeking reconsideration shall be limited to the following:

- (a) The examiner exceeded his jurisdiction;
- (b) The examiner failed to follow the applicable procedure in reaching his decision;
- (c) The examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of the Snohomish County Code, or other county or state law or regulation;
- (d) The examiner's findings, conclusions and/or conditions are not supported by the record;
- (e) Newly discovered evidence alleged to be material to the examiner's decision which could not reasonably have been produced at the examiner's hearing; or
- (f) Changes to the application proposed by the applicant in response to deficiencies identified in the decision.

(4) The petition for reconsideration must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner's attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the specific grounds upon which relief is requested; describe the specific relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

(5) The petition for reconsideration shall be deemed to have been denied if one of the actions specified in subsection (6), below, has not been taken within 10 calendar days of the end of the

reconsideration period established in subsection (2), above.

(6) The petition for reconsideration shall be disposed of in writing by the same examiner who rendered the decision, if reasonably available. If such examiner is not reasonably available, the petition shall be disposed of by another examiner.

The examiner may at his discretion:

- (a) Deny the petition;
- (b) Grant the petition and issue an amended decision in accordance with the provisions of SCC 2.02.150 following reconsideration;

(c) Accept the petition and give all parties of record the opportunity to submit written comment. Notice of the filing of, together with a copy of, a petition for reconsideration to be handled in such a fashion shall be sent to all parties of record by the examiner's office. Parties shall have 10 calendar days from the date of such notice in which to submit written comments. The examiner shall either issue a decision in accordance with the provisions of SCC 2.02.150 or issue an order within 15 days after the close of the comment period setting the matter for further hearing in accordance with subsection (d), below; or

(d) Accept the petition and set the matter for further open record hearing to consider new evidence, proposed changes in the application and/or the arguments of the parties. Notice of such further hearing shall be mailed by the examiner's office not less than 15 days prior to the hearing date to all parties of record. The examiner shall issue a decision following the further hearing in accordance with the provisions of SCC 2.02.150.

(7) A decision which has been subjected to the reconsideration process shall not again be subject to reconsideration; PROVIDED, That a decision which has been revised on reconsideration from any form of denial to any form of approval with preconditions and/or conditions shall be subject to reconsideration.

(8) The examiner may consolidate for action, in whole or in part, multiple petitions for reconsideration of the same decision where such consolidation would facilitate procedural efficiency. (Added Amended Ord. 93-077, Sept. 8, 1993, Eff date Jan. 1, 1994; Amended Ord. 95-032, § 2, June 28, 1995, Eff date July 20, 1995; Amended Ord. 96-003, § 10, Feb. 21, 1996, Eff date April 1, 1996).

### 2.02.175 Appeal to county council from examiner's decision.

Where the examiner's decision is final and

conclusive with right of appeal to the council, the following provisions shall apply:

(1) Appeals may be filed by any aggrieved party of record. Where the reconsideration process of SCC 2.02.167 has been elected no appeal may be filed until the reconsideration process has been completed, and no appeal under this section may raise an issue which has not been the subject of a petition for reconsideration. Only the petitioner for reconsideration may appeal from the denial of a petition for reconsideration. Appeals shall be addressed to the Snohomish County council but shall be filed in writing with the department of planning and development services within 14 calendar days following the date of the examiner's decision except as provided in SCC 18.72.030(3), and shall be accompanied by a filing fee in the amount of \$100.00. The filing fee shall not be charged to a department of the county or to other than the first appellant. The filing fee shall be refunded in any case where an appeal is summarily dismissed under subsection (7) of this section because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect.

(2) An examiner decision which has been timely appealed shall come on for council consideration at a closed record appeal hearing. Appeals shall be on the record with no new evidence allowed unless specifically requested by the council. Appeals shall be processed by the council as expeditiously as possible, giving proper consideration to the due process rights of the parties.

(3) The grounds for filing an appeal shall be limited to the following:

- (a) The examiner exceeded his jurisdiction;
- (b) The examiner failed to follow the applicable procedure in reaching his decision;
- (c) The examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of the Snohomish County Code, or other county or state law or regulation; or

(d) The examiner's findings, conclusions and/or conditions are not supported by the record.

(4) An appeal must contain the items set forth in the following subsections in order to be complete:

- (a) A detailed statement of the grounds for appeal;
- (b) A detailed statement of the facts upon which the appeal is based, including citations to specific hearing examiner findings, conclusions, exhibits or oral testimony;

(c) Written arguments in support of the appeal;

(d) The name, mailing address and daytime telephone number of each appellant, together with the signature of at least one of the appellants or of the attorney for the appellant(s), if any;

(e) The name, mailing address, daytime telephone number and signature of the appellant's agent or representative, if any; and

(f) The required filing fee.

(5) Timely filing of an appeal shall stay the effective date of the examiner's decision until such time as the appeal is adjudicated by the council or withdrawn. The council may consolidate multiple appeals of the same action for hearing and decision making purposes where to do so would facilitate expeditious and thorough consideration of the appeals without adversely affecting the due process rights of any of the parties. In the event of a conflict between time deadlines when multiple appeals are consolidated, the time deadlines of the first filed appeal shall control.

(6) No new appeal issues may be raised or submitted after the close of the time period established in subsection (1), above, for filing of the original appeal. All council proceedings shall be limited to those issues expressly raised in a timely written appeal or appeals.

(7) The council may summarily dismiss an appeal in whole or in part without hearing if it determines that the appeal is untimely, incomplete, without merit on its face, frivolous, beyond the scope of its jurisdiction or brought merely to secure a delay. The council may also summarily dismiss an appeal if it finds, in response to a challenge raised by the respondent and/or by the permit applicant and after allowing the appellant a reasonable period in which to reply to the challenge, that the appellant lacks legal standing to appeal. Except in extraordinary circumstances, summary dismissal orders shall be issued within 15 days following receipt of either a complete appeal or a request for issuance of such an order, whichever is later.

(8) Parties of record may file with the council written arguments through the end of the fourteenth day following the date of the notice required in subsection (9), below. The appellant or appellants may file with the council written rebuttal arguments through the end of the twenty-first day following the date of the notice required in subsection (9), below. All such submittals shall become a part of the record.

(9) Notice of the council's closed record appeal hearing shall be given in the following manner:

(a) Within seven calendar days following timely filing of a complete appeal, notice of the appeal and of the date, time and place for the council's closed record appeal hearing, and of the deadline for submittal of written arguments as prescribed in SCC 2.02.175(8), shall be mailed by the council's office to the applicant/appellant, to the examiner, and to all other parties of record as defined in SCC 2.02.165;

(b) Publication in the official county newspaper no less than 10 days prior to the date set for hearing; and

(c) Conspicuous posting of the subject property by the applicant no less than 15 days prior to the date set for the hearing and in accordance with the public notice posting requirements for the underlying application.

(10) The council shall consider the matter based upon the record before the examiner, the examiner's decision, the written appeal statement and any written or oral arguments received by the council for its hearing. All oral testimony requested by the council pursuant to subsection (2) of this section shall be given under oath.

(11) At the conclusion of the public hearing, the council shall enter its decision which shall set forth the findings and conclusions of the council in support of its decision. The council may adopt any or all of the findings or conclusions of the examiner which support the council's decision. The council may affirm the decision of the examiner, reverse the decision of the examiner either wholly or in part, or may remand the matter to the examiner for further proceedings in accordance with the council's findings and conclusions.

(12) The council's decision shall be reduced to writing, entered into the record of the proceedings, and copies thereof mailed to all parties of record within 15 days of the conclusion of the hearing, but not later than 60 calendar days after the filing of an appeal unless the applicant (or appellant where there is no underlying applicant) agrees in writing to extend the time period or unless the time period has been extended under some other authority. (Ord. 96-003, § 12, Feb. 21, 1966, Eff date April 1, 1996; Amended Ord. 97-075, § 2, Sept. 24, 1997, Eff date Oct. 8, 1997; Amended Ord. 99-115, § 1, Jan. 12, 2000, Eff date Jan. 23, 2000).

#### **2.02.185 Clerical mistakes — Authority to correct.**

Clerical mistakes and errors arising from oversight or omission in hearing examiner and council decisions and/or orders issued pursuant to this chapter may be corrected by the issuing body at any time either on its own initiative or on the motion of a party of record. A copy of each page affected by the correction, with the correction clearly identified, shall be mailed to all parties of record. (Added Ord. 93-077, Sept. 8, 1993, Eff date Jan. 1, 1994).

#### **2.02.190 Effect of council action.**

The council's decision on an appeal shall be final and conclusive and may be reviewable by filing a land use petition in the Snohomish County superior court; in accordance with the provisions of Chapter 36.70C RCW except as may be limited by chapters 43.21C RCW, 197-11 WAC and 23.40 SCC. Such an action may be brought within 21 calendar days of the date of the council's decision by any party of record aggrieved by the council's decision. The cost of transcribing the record of proceedings, of copying photographs, video tapes and any oversized documents, and of staff time spent in copying and assembling the record and preparing the return for filing with the court shall be borne by the party filing the land use petition. (Ord. 80-115 § 1, adopted December 29, 1980; Amended Ord. 85-105, December 4, 1985; Amended Ord. 88-041, § 2, June 22, 1988; Amended Ord. 93-077, Sept. 8, 1993; Eff date Jan. 1, 1994; Amended Ord. 96-003, § 14, Feb. 21, 1996, Eff date April 1, 1996).

#### **2.02.195 Appeal to court from examiner's decision.**

(1) Where the examiner's decision on a land use matter is final and conclusive and may be reviewable by the filing of a land use petition in Snohomish County superior court, in accordance with the provisions of Chapter 36.70C RCW, the following provisions shall apply:

(a) Where the reconsideration process of SCC 2.02.167 has been utilized, no land use petition may be filed until the reconsideration process has been complete and no land use petition under this section by the petitioner for reconsideration may raise an issue which has not been the subject of a petition for reconsideration.

(b) Except as provided in subsection (c) of this section or 18.72.030(3), a land use petition may be filed by any aggrieved party of record within 21 calendar days following the date of the



examiner's final decision; PROVIDED, That only the petitioner for reconsideration may file a land use petition from the denial of a petition for reconsideration. The cost of transcribing the record of proceedings, of copying photographs, video tapes, and oversized documents, and of staff time spent copying and assembling the record and preparing the return for filing with the court shall be borne by the party filing the land use petition.

(c) A land use petition on an examiner's decision made pursuant to SCC 23.40.022 must be combined with a land use petition on the decision on the underlying permit. Where the underlying permit is heard on appeal by the county council, the land use petition on the examiner's decision shall be combined with a petition on the county council's decision, and shall be filed in accordance with SCC 2.02.190.

(2) Where the examiner's decision on a non-land use matter is final and conclusive and may be reviewable by an action for writ of review in Snohomish County superior court, the following provisions shall apply:

(a) Where the reconsideration process of SCC 2.02.167 has been utilized, no petition for a writ may be filed until the reconsideration process has been completed and no petition for a writ under this section by the petitioner for reconsideration may raise an issue which has not been the subject of a petition for reconsideration.

(b) Such an action may be brought by any aggrieved party of record by petition to the court for such a writ filed within 21 calendar days following the date of the examiner's decision on reconsideration; PROVIDED, That only the petitioner for reconsideration may file a petition for a writ from the denial of a petition for reconsideration. The cost of transcribing the record of proceedings, of copying photographs, video tapes, and oversized documents, and of staff time spent copying and assembling the record and preparing the return for filing with the court shall be borne by the applicant for the writ. (Added Amended Ord. 93-077, Sept. 8, 1993, Eff date Jan. 1, 1994; Amended Ord. 96-003, § 15, Feb. 21, 1996, Eff date April 1, 1996; Amended Ord. 99-115, § 2, Jan. 12, 2000, Eff date Jan. 23, 2000).

#### **2.02.200 Examiner's report to council and planning commission.**

The examiner shall report in writing to and meet with the Snohomish county council and the planning commission at least annually for the purpose of reviewing the administration of the county's land use policy and regulatory ordinanc-

es. Such report shall include a summary of the examiner's decisions since the last report. (Ord. 80-115, § 1, adopted December 29, 1980; Amended Ord. 97-075, § 3, Sept. 24, 1997, Eff date Oct. 8, 1997).

#### **2.02.210 Interlocal agreements.**

The examiner may provide services similar to those prescribed herein for other municipalities when authorized by interlocal agreement. (Ord. 80-115 § 1, adopted December 29, 1980).

#### **2.02.215 Severability.**

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provisions to other persons or circumstances is not affected. (Added Amended Ord. 93-077, Sept. 8, 1993, Eff date Jan. 1, 1994).

**WAC 365-196-845 Local project review and development agreements.**

(1) The local Project Review Act (chapter 36.70B RCW) requires counties and cities planning under the act to adopt procedures for fair and timely review of project permits under RCW 36.70B.020(4), such as building permits, subdivisions, binding site plans, planned unit developments, conditional uses, and other permits or other land use actions. The project permitting procedures ensure that when counties and cities implement goal 7 of the act, under RCW 36.70A.020(7), applications for both state and local government permits should be processed in a timely and fair manner.

(2) Consolidated permit review process.

(a) Counties and cities must adopt a permit review process that provides for consolidated review of all permits necessary for a proposed project action. The permit review process must provide for the following:

(i) A consolidated project coordinator for a consolidated project permit application;

(ii) A consolidated determination of completeness;

(iii) A consolidated notice of application;

(iv) A consolidated set of hearings; and

(v) A consolidated notice of final decision that includes all project permits being reviewed through the consolidated permit review process.

(b) Counties and cities administer many different types of permits, which can generally be grouped into categories. The following are examples of project permit categories:

(i) Permits that do not require environmental review or public notice, and may be administratively approved;

(ii) Permits that require environmental review, but do not require a public hearing; and

(iii) Permits that require environmental review and/or a public hearing, and may provide for a closed record appeal.

(c) Local project review procedures should address, at a minimum, the following for each category of permit:

(i) What is required for a complete application;

(ii) How the county or city will provide notice of application;

(iii) Who makes the final decision;

(iv) How long local project review is likely to take;

(v) What fees and charges will apply, and when an applicant must pay fees and charges;

(vi) How to appeal the decision;

(vii) Whether a preapplication conference is required;

(viii) A determination of consistency; and

(ix) Requirements for provision of notice of decision.

(d) A project permit applicant may apply for individual permits separately.

(3) Project permits that may be excluded from consolidated permit review procedures. A local government may, by ordinance or resolution, exclude some permit types from these procedures. Excluded permit types may include:

(a) Actions relating to the use of public areas or facilities such as landmark designations or street vacations;

(b) Actions categorically exempt from environmental review, or for which environmental review has already been completed such as lot line or boundary adjustments, and building and other construction permits, or similar administrative approvals; or

(c) Other project permits that the local government has determined present special circumstances.

(4) RCW 36.70A.470 prohibits using project review conducted under chapter 36.70B RCW from being used as a comprehensive planning process. Except when considering an application for a major industrial development under RCW 36.70A.365, counties and cities may not consolidate project permit review with review of proposals, to amend the comprehensive plan, even if the comprehensive plan amendment is site-specific. Counties and cities may not combine a project permit application with an area-wide rezone or a text amendment to the development regulations, even if proposed along with a project permit application.

(5) Consolidated project coordinator.

(a) Counties and cities should appoint a single project coordinator for each consolidated project permit application.

(b) Counties and cities should require the applicant for a project permit to designate a single person or entity to receive determinations and notices about a project permit application as authorized by RCW 36.70A.100.

(6) Determination of complete application.

(a) A project permit application is complete for the purposes of this section when it meets the county's or city's procedural submission requirements and is sufficient for continued processing, even if additional information is required, or the project is subsequently modified.

(b) The development regulations must specify, for each type of permit application, what information a permit application must contain to be considered complete. This may vary based on the type of permit.

(c) For more complex projects, counties and cities are encouraged to use preapplication meetings to clarify the project action and local government permitting requirements and review procedures. Counties and cities may require a preapplication conference.

(d) Within twenty-eight days of receiving a project permit application, counties and cities must provide to the applicant a written determination of completeness or request for more information stating either:

(i) The application is complete; or

(ii) The application is incomplete and what is necessary to make the application complete.

(e) A determination of completeness or request for more information is required within fourteen days of the applicant providing additional requested information.

(f) The application is deemed complete if the county and city does not provide the applicant with a determination of completeness or request for more information within the twenty-eight days of receiving the application.

(g) The determination of completeness may include a preliminary determination of consistency and a preliminary determination of development regulations that will be used for project mitigation.

(h) Counties and cities may require project applicants to provide additional information or studies, either at the time of the notice of completeness or if the county or city requires new information during the course of continued review, at the request of reviewing agencies, or if the proposed action substantially changes.

(7) Identification of permits from other agencies. To the extent known, the county or city must identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application. However, the applicant is solely responsible

for knowing of, and obtaining any permits necessary for, a project action.

(8) Notice of project permit application. Notice of a project permit application must be provided to the public and the departments and agencies with jurisdiction over the project permit application. It may be combined with the notice of complete application.

(a) What the notice of application must include:

(i) The date of application, the date of the notice of completion, and the date of the notice of application;

(ii) A description of the proposed project action and a list of the project permits included in the application and a list of any required studies;

(iii) The identification of other permits not included in the application that the proposed project may require, to the extent known by the county or city;

(iv) The identification of existing environmental documents that evaluate the proposed project;

(v) The location where the application and any studies can be reviewed;

(vi) A preliminary determination, if one has been made at the time of notice, of which development regulations will be used for project mitigation and of project consistency as provided in RCW 36.70B.040 and chapter 365-197 WAC;

(vii) Any other information determined appropriate by the local government;

(viii) A statement of the public comment period. The statement must explain the following:

(A) How to comment on the application;

(B) How to receive notice of and participate in any hearings on the application;

(C) How to obtain a copy of the decision once made; and

(D) Any rights to appeal the decision.

(ix) If the project requires a hearing or hearings, and they have been scheduled by the date of notice of application, the notice must specify the date, time, place, and type of any hearings required for the project.

(b) When the notice of application must be provided. Notice of application must be provided within fourteen days of determining an application is complete. If the project permit requires an open record predecision hearing, the county or city must provide the notice of application at least fifteen days before the open record hearing.

(c) How to provide notice of application. A county or city may provide notice in different ways for different types of project permits depending on the size and scope of the project and the types of permit approval included in the project permit. Project review procedures should specify as minimum requirements, how to provide notice for each type of permit. Cities and counties may use a variety of methods for providing notice. However, if the local government does not specify how it will provide public notice, it shall use the methods specified in RCW 36.70B.110 (4) (a) and (b). Examples of reasonable methods of providing notice are:

(i) Posting the property for site-specific proposals;

(ii) Publishing notice in written media such as in the newspaper of general circulation in the general area where the proposal is located, in appropriate regional or neighborhood newspapers, trade journals, agency newsletters or sending notice to agency mailing lists,

either general lists or lists for specific proposals or subject areas; or in a local land use newsletter published by the local government;

(iii) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(iv) Notifying the news media;

(v) Mailing to neighboring property owners; or

(vi) Providing notice by posting the application and other documentation using electronic media such as an email and a website.

(9) The application comment period. The comment period must be at least fourteen days and no more than thirty days from the date of notice of application. A county or city may accept public comments any time before the record closes for an open record predecision hearing. If no open record predecision hearing is provided, a county or city may accept public comments any time before the decision on the project permit.

(10) Project review timelines. Counties and cities must establish and implement a permit process time frame for review of each type of project permit application, and for consolidated permit applications, and must provide timely and predictable procedures for review. The time periods for county or city review of each type of complete application should not exceed one hundred twenty days unless written findings specify the additional time needed for processing. Project permit review time periods established elsewhere, such as in RCW 58.17.140 should be followed for those actions. Counties and cities are encouraged to consider expedited review for project permit applications for projects that are consistent with adopted development regulations and within the capacity of system wide infrastructure improvements.

(11) Hearings. Where multiple permits are required for a single project, counties and cities must allow for consolidated permit review as provided in RCW 36.70B.120(1). Counties and cities must determine which project permits require hearings. If hearings are required for certain permit categories, the review process must provide for no more than one consolidated open record hearing and one closed record appeal. An open record appeal hearing is only allowed for permits in which no open record hearing is provided prior to the decision. Counties and cities may combine an open record hearing on one or more permits with an open record appeal hearing on other permits. Hearings may be combined with hearings required for state, federal or other permits hearings provided that the hearing is held within the geographic boundary of the local government and the state or federal agency is not expressly prohibited by statute from doing so.

(12) Project permit decisions. A county or city may provide for the same or a different decision maker, hearing body or officer for different categories of project permits. The consolidated permit review process must specify which decision maker must make the decision or recommendation, conduct any required hearings or decide an appeal to ensure that consolidated permit review occurs as provided in this section.

(13) Notice of decision.

(a) The notice of decision must include the following:

(i) A statement of any SEPA threshold determination;

(ii) An explanation of how to file an administrative appeal (if provided) of the decision; and

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

(b) Notice of decision should also include:

- (i) Any findings on which the final decision was based;
- (ii) Any conditions of permit approval conditions or required mitigation; and
- (iii) The permit expiration date, where applicable.

(c) Notice of decision may be in the form of a copy of the report or decision on the project permit application, provided it meets the minimum requirements for a notice of decision.

(d) How to provide notice of decision. A local government may provide notice in different ways for different types of project permits depending on the size and scope of the project and the types of permit approval included in the project permit. Project review procedures should specify as minimum requirements, how to provide notice for each type of permit. Examples of reasonable methods of providing notice of decision are:

- (i) Posting the property for site-specific proposals;
- (ii) Publishing notice in written media such as in the newspaper of general circulation in the general area where the proposal is located, in appropriate regional or neighborhood newspapers, trade journals, agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; or in a local land use newsletter published by the county or city;
- (iii) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;
- (iv) Notifying the news media;
- (v) Mailing to neighboring property owners; or
- (vi) Providing notice and posting the application and other documentation using electronic media such as email and a website.

(e) Cities and counties must provide a notice of decision to the following:

- (i) The project applicant;
- (ii) Any person who requested notice of decision;
- (iii) Any person who submitted substantive comments on the application; and
- (iv) The county assessor's office of the county or counties in which the property is situated.

(14) Appeals. A county or city is not required to provide for administrative appeals for project permit decisions. However, where appeals are provided, procedures should allow for no more than one consolidated open record hearing, if not already held, and one closed-record appeal. Provisions should ensure that appeals are to be filed within fourteen days after the notice of final decision and may be extended to twenty-one days to allow for appeals filed under chapter 43.21C RCW.

(15) Monitoring permit decisions. Each county and city shall adopt procedures to monitor and enforce permit decisions and conditions such as periodic review of permit provisions, inspections, and bonding provisions.

(16) Code interpretation. Project permitting procedures must include adopted procedures for administrative interpretation of development regulations. For example, procedures should specify who provides an interpretation related to a specific project, and where a record of such code interpretations are kept so that subsequent interpretations are consistent. Code interpretation procedures help ensure a consistent and predictable interpretation of development regulations.

(17) Development agreements. Counties and cities are authorized by RCW 36.70B.170(1) to enter into voluntary contractual agreements to

govern the development of land and the issuance of project permits. These are referred to as development agreements.

(a) Purpose. The purpose of development agreements is to allow a county or city and a property owner/developer to enter into an agreement regarding the applicable regulations, standards, and mitigation that apply to a specific development project after the development agreement is executed.

(i) If the development regulations allow some discretion in how those regulations apply or what mitigation is necessary, the development agreement specifies how the county or city will use that discretion. Development agreements allow counties and cities to combine an agreement on the exercise of its police power with the exercise of its power to enter contracts.

(ii) Development agreements must be consistent with applicable development regulations adopted by a county or city. Development agreements do not provide means of waiving or amending development regulations that would otherwise apply to a project.

(iii) Counties and cities may not use development agreements to impose impact fees, inspection fees, or dedications, or require any other financial contribution or mitigation measures except as otherwise expressly authorized, and consistent with the applicable development regulations.

(b) Parties to the development agreement. The development agreement must include as a party to the agreement, the person who owns or controls the land subject to the agreement. Development agreements may also include others, including other agencies with permitting authority or service providers. Cities and counties may enter into development agreements outside of their boundaries if the agreement is part of a proposed annexation or service agreement.

(c) Content of a development agreement. The development agreement must set forth the development standards and other provisions that apply to, govern, and vest the development, use, and mitigation of the development of the real property for the duration of the agreement. These may include, but are not limited to:

(i) Project elements such as permitted uses, residential densities, and intensity of commercial or industrial land uses and building sizes;

(ii) The amount and payment of fees imposed or agreed to in accordance with any applicable laws or rules in effect at the time, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;

(iii) Mitigation measures, development conditions, and other requirements under chapter 43.21C RCW;

(iv) Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features;

(v) Affordable housing;

(vi) Parks and open space preservation;

(vii) Phasing;

(viii) Review procedures and standards of implementing decisions;

(ix) A build-out or vesting period for applicable standards; and

(x) Any other appropriate development requirement or procedure.

(d) The effect of development agreements. Development agreements may exercise a county's or city's authority to issue permits or its contracting authority. Once executed, development agreements are binding between the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area

covering the property covered by the development agreement. The agreement grants vesting rights to the proposed development consistent with the development regulations in existence at the time of execution of the agreement. A permit approval issued by the county or city after the execution of the development agreement must be consistent with the development agreement. A development agreement may obligate a party to fund or provide services, infrastructure or other facilities. A development agreement may not obligate a county or city to adopt subsequent amendments to the comprehensive plan, development regulations or otherwise delegate legislative powers. Any such amendments must still be adopted by the legislative body following all applicable procedural requirements.

(e) A development agreement must reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

(f) Procedures.

(i) These procedural requirements are in addition to and supplemental to the procedural requirements necessary for any actions, such as rezones, street vacations or annexations, called for in a development agreement. Development agreements may not be used to bypass any procedural requirements that would otherwise apply. Counties and cities may combine hearings, analyses, or reports provided the process meets all applicable procedural requirements;

(ii) Only the county or city legislative authority may approve a development agreement;

(iii) A county or city must hold a public hearing prior to executing a development agreement. The public hearing may be conducted by the county or city legislative body, planning commission or hearing examiner, or other body designated by the legislative body to conduct the public hearing; and

(iv) A development agreement must be recorded in the county where the property is located.

[Statutory Authority: RCW 36.70A.050 and 36.70A.190. WSR 10-03-085, § 365-196-845, filed 1/19/10, effective 2/19/10.]



## **Notice of application—Required elements—Integration with other review procedures—Administrative appeals (*as amended by 1997 c 396*).**

(1) Not later than April 1, 1996, a local government planning under RCW **36.70A.040** shall provide a notice of application to the public and the departments and agencies with jurisdiction as provided in this section. If a local government has made a threshold determination (~~((of significance))~~) under chapter **43.21C** RCW concurrently with the notice of application, the notice of application (~~((shall))~~) may be combined with the threshold determination (~~((of significance))~~) and the scoping notice for a determination of significance. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application.

(2) The notice of application shall be provided within fourteen days after the determination of completeness as provided in RCW **36.70B.070** and include the following in whatever sequence or format the local government deems appropriate:

(a) The date of application, the date of the notice of completion 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 under RCW **36.70B.070** or \* **36.70B.090**;

(c) The identification of other permits not included in the application to the extent known by the local government;

(d) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;

(e) A statement of the public comment period, which shall be not less than fourteen nor more than thirty days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A local government may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;

(f) The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;

(g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in RCW **36.70B.040**; and

(h) Any other information determined appropriate by the local government.

(3) If an open record predecision hearing is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.

(4) A local government shall use reasonable methods to give the notice of application to the public and agencies with jurisdiction and may use its existing notice procedures. A local government may use different types of notice for different categories of project permits or types of project actions. If a local government by resolution or ordinance does not specify its method of public notice, the local government shall use the methods provided for in (a) and (b) of this subsection. Examples of reasonable methods to inform the public are:

(a) Posting the property for site-specific proposals;

(b) Publishing notice, including at least the project location, description, type of permit(s) required, comment period dates, and location where the complete application may be reviewed, in the newspaper of general circulation in the general area where the proposal is located or in a local land use newsletter published by the local government;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

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 (d) Notifying the news media;

(e) Placing notices in appropriate regional or neighborhood newspapers or trade journals;

(f) Publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and

(g) Mailing to neighboring property owners.

(5) A notice of application shall not be required for project permits that are categorically exempt under chapter **43.21C** RCW, unless a public comment period or an open record predecision hearing is required.

(6) A local government shall integrate the permit procedures in this section with environmental review under chapter **43.21C** RCW as follows:

(a) Except for a threshold determination (~~(of significance)~~), the local government may not issue (~~(its threshold determination, or issue)~~) a decision or a recommendation on a project permit until the expiration of the public comment period on the notice of application.

(b) If an open record predecision hearing is required and the local government's threshold determination requires public notice under chapter **43.21C** RCW, the local government shall issue its threshold determination at least fifteen days prior to the open record predecision hearing.

(c) Comments shall be as specific as possible.

(7) A local government may combine any hearing on a project permit with any hearing that may be held by another local, state, regional, federal, or other agency provided that the hearing is held within the geographic boundary of the local government. Hearings shall be combined if requested by an applicant, as long as the joint hearing can be held within the time periods specified in **\*RCW 36.70B.090** or the applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings. All agencies of the state of Washington, including municipal corporations and counties participating in a combined hearing, are hereby authorized to issue joint hearing notices and develop a joint format, select a mutually acceptable hearing body or officer, and take such other actions as may be necessary to hold joint hearings consistent with each of their respective statutory obligations.

(8) All state and local agencies shall cooperate to the fullest extent possible with the local government in holding a joint hearing if requested to do so, as long as:

(a) The agency is not expressly prohibited by statute from doing so;

(b) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and

(c) The agency has received the necessary information about the proposed project from the applicant to hold its hearing at the same time as the local government hearing.

(9) A local government is not required to provide for administrative appeals. If provided, an administrative appeal of the project decision, combined with any environmental determinations, shall be filed within fourteen days after the notice of the decision or after other notice that the decision has been made and is appealable. The local government shall extend the appeal period for an additional seven days, if state or local rules adopted pursuant to chapter **43.21C** RCW allow public comment on a determination of nonsignificance issued as part of the appealable project permit decision.

(10) The applicant for a project permit is deemed to be a participant in any comment period, open record hearing, or closed record appeal.

(11) Each local government planning under RCW **36.70A.040** shall adopt procedures for administrative interpretation of its development regulations.

[ **1997 c 396 § 1**; **1995 c 347 § 415**.]

## NOTES:

**\*Reviser's note:** RCW **36.70B.090** expired June 30, 2000, pursuant to **1998 c 286 § 8**.

## **Notice of application—Required elements—Integration with other review procedures—Administrative appeals *(as amended by 1997 c 429)*.**

(1) Not later than April 1, 1996, a local government planning under RCW **36.70A.040** shall provide a notice of application to the public and the departments and agencies with jurisdiction as provided in this section. If a local government has made a determination of significance under chapter **43.21C** RCW concurrently with the notice of application, the notice of application shall be combined with the determination of significance and scoping notice. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application. Nothing in this section or this chapter prevents a lead agency, when it is a project proponent or is funding a project, from conducting its review under chapter **43.21C** RCW or from allowing appeals of procedural determinations prior to submitting a project permit application.

(2) The notice of application shall be provided within fourteen days after the determination of completeness as provided in RCW **36.70B.070** and, except as limited by the provisions of subsection (4) (b) of this section, shall include the following in whatever sequence or format the local government deems appropriate:

(a) The date of application, the date of the notice of completion 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 under RCW **36.70B.070** or \* **36.70B.090**;

(c) The identification of other permits not included in the application to the extent known by the local government;

(d) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;

(e) A statement of the public comment period, which shall be not less than fourteen nor more than thirty days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A local government may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;

(f) The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;

(g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in RCW ((~~36.70B.040~~) **36.70B.030(2)**); and

(h) Any other information determined appropriate by the local government.

(3) If an open record predecision hearing is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.

(4) A local government shall use reasonable methods to give the notice of application to the public and agencies with jurisdiction and may use its existing notice procedures. A local government may use different types of notice for different categories of project permits or types of project actions. If a local government by resolution or ordinance does not specify its method of public notice, the local government shall use the methods provided for in (a) and (b) of this subsection. Examples of reasonable methods to inform the public are:

(a) Posting the property for site-specific proposals;

(b) Publishing notice, including at least the project location, description, type of permit(s) required, comment period dates, and location where the notice of application required by subsection (2) of this section and the complete application may be reviewed, in the newspaper of general circulation in

the general area where the proposal is located or in a local land use newsletter published by the local government;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Notifying the news media;

(e) Placing notices in appropriate regional or neighborhood newspapers or trade journals;

(f) Publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and

(g) Mailing to neighboring property owners.

(5) A notice of application shall not be required for project permits that are categorically exempt under chapter **43.21C** RCW, unless ~~((a public comment period or))~~ an open record predecision hearing is required or an open record appeal hearing is allowed on the project permit decision.

(6) A local government shall integrate the permit procedures in this section with its environmental review under chapter **43.21C** RCW as follows:

(a) Except for a determination of significance and except as otherwise expressly allowed in this section, the local government may not issue its threshold determination ~~((or issue a decision or a recommendation on a project permit))~~ until the expiration of the public comment period on the notice of application.

(b) If an open record predecision hearing is required ~~((and the local government's threshold determination requires public notice under chapter **43.21C** RCW))~~, the local government shall issue its threshold determination at least fifteen days prior to the open record predecision hearing.

(c) Comments shall be as specific as possible.

(d) A local government is not required to provide for administrative appeals of its threshold determination. If provided, an administrative appeal shall be filed within fourteen days after notice that the determination has been made and is appealable. Except as otherwise expressly provided in this section, the appeal hearing on a determination of nonsignificance shall be consolidated with any open record hearing on the project permit.

(7) At the request of the applicant, a local government may combine any hearing on a project permit with any hearing that may be held by another local, state, regional, federal, or other agency ~~((provided that)), if:~~

(a) The hearing is held within the geographic boundary of the local government ~~((Hearings shall be combined if requested by an applicant, as long as)); and~~

(b) The joint hearing can be held within the time periods specified in \*RCW **36.70B.090** or the applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings. All agencies of the state of Washington, including municipal corporations and counties participating in a combined hearing, are hereby authorized to issue joint hearing notices and develop a joint format, select a mutually acceptable hearing body or officer, and take such other actions as may be necessary to hold joint hearings consistent with each of their respective statutory obligations.

(8) All state and local agencies shall cooperate to the fullest extent possible with the local government in holding a joint hearing if requested to do so, as long as:

(a) The agency is not expressly prohibited by statute from doing so;

(b) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and

(c) The agency has received the necessary information about the proposed project from the applicant to hold its hearing at the same time as the local government hearing.

(9) A local government is not required to provide for administrative appeals. If provided, an administrative appeal of the project decision ~~((combined with))~~ and of any environmental determination ~~((s))~~ issued at the same time as the project decision, shall be filed within fourteen days after the notice of the decision or after other notice that the decision has been made and is appealable. The local government shall extend the appeal period for an additional seven days, if state or local rules

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adopted pursuant to chapter **43.21C** RCW allow public comment on a determination of nonsignificance issued as part of the appealable project permit decision.

(10) The applicant for a project permit is deemed to be a participant in any comment period, open record hearing, or closed record appeal.

(11) Each local government planning under RCW **36.70A.040** shall adopt procedures for administrative interpretation of its development regulations.

[ **1997 c 429 § 48**; **1995 c 347 § 415**.]

## NOTES:

**Reviser's note:** \*(1) RCW **36.70B.090** expired June 30, 2000, pursuant to **1998 c 286 § 8**.

(2) RCW **36.70B.110** was amended twice during the 1997 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW **1.12.025**.

**Severability—1997 c 429:** See note following RCW **36.70A.3201**.

## ANALYSIS OF BUILDING AND LAND USE REGULATION EFFECTS ON CAPITAL FACILITIES AND UTILITIES

**Title** Ordinance No. \_\_-\_\_\_\_,

**Description** This is non-project proposal to amend the Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits (SCC 30.70.080 and SCC 30.72.100)

**Date:** January 21, 2022

**Staff Contact:** Sarah Titcomb, Principal Planner, Sarah.Titcomb@snoco.org

	Place an "X" in the appropriate box			Comments
	Increase	Decrease	Neutral	
<b>County Provided</b>				
• Airport			X	The proposed amendments will streamline the noticing process for appeal hearings and will not impact County provided capital facilities and utilities.
• General Government			X	
• Law and Justice			X	
• Parks			X	
• Roads			X	
• Solid Waste			X	
• Surface Water			X	
<b>Non-County Provided</b>				
• Electric Power			X	The proposed amendments will streamline the noticing process for appeal hearings and will not impact non-County provided capital facilities and utilities.
• Fire Suppression			X	
• Public Water Supply			X	
• Sanitary Sewer			X	
• Telecommunications			X	

*This form is intended to provide a summary analysis of the impact changes to development regulation may have on county and non-county provided capital facilities and utilities.*

**ANALYSIS OF BUILDING AND LAND USE REGULATION EFFECTS ON HOUSING AND JOBS**

**Title** Ordinance No. \_\_-\_\_\_\_,

**Description** This is non-project proposal to amend the Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits (SCC 30.70.080 and SCC 30.72.100)

**Date:** January 21, 2022

**Staff Contact:** Sarah Titcomb, Principal Planner, Sarah.Titcomb@snoco.org

	Place an "X" in the appropriate box				Comments
	Increase	Decrease	Neutral	Uncertain	
<b>Housing</b>					
Capacity/Targets			X		The proposed amendments will streamline the noticing process for appeal hearings and will not likely impact housing in the county.
Cost of Housing Development:			X		
• Infrastructure			X		
• Site			X		
• Building const.			X		
• Fees			X		
• Yield			X		
Timing			X		
<b>Jobs</b>					
Capacity/Targets			X		The proposed amendments will streamline the noticing process for appeal hearings and will not likely impact employment in the county.
Cost of Commercial or Industrial Development:			X		
• Infrastructure			X		
• Site			X		
• Building const.			X		
• Fees			X		
• Yield			X		
Time to Create Jobs			X		
# Family Wage Jobs			X		

*This form is intended to provide a summary analysis of the impact changes to development regulation may have on Residential, Commercial or Industrial Development.*

## ANALYSIS OF BUILDING AND LAND USE REGULATION EFFECTS ON LOW IMPACT DEVELOPMENT

**Title** Ordinance No. \_\_-\_\_\_\_,

**Description** This is non-project proposal to amend the Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits (SCC 30.70.080 and SCC 30.72.100)

**Date:** January 21, 2022

**Staff Contact:** Sarah Titcomb, Principal Planner, Sarah.Titcomb@snoco.org

### LID Evaluation:

The proposed amendments to Chapters 30.71 and 30.72 SCC do not increase or hamper the likelihood of development in Snohomish County as they are focused on housekeeping corrections to streamline the noticing process for Type 1 and Type 2 permit appeal hearings. As such, there will be no impact on LID.

Does the new policy or regulation support Low Impact Development	Place an "X" in the appropriate box			If "yes" or "no", explain...
	Increase	Decrease	Neutral	
Retention of native vegetation			X	
Minimal disruption of native soils			X	
Preservation of natural drainage			X	
Minimization of impervious surface area			X	
Use of LID facilities			X	
Better site design – using LID principles			X	
Adherence to SWPPP and drainage plan requirements			X	
Provisions for long term maintenance			X	



<b>Retention of native vegetation</b>			X	
<b>Minimal disruption of native soils</b>			X	
<b>Preservation of natural drainage</b>			X	
<b>Minimization of impervious surface area</b>			X	

**PUBLIC PARTICIPATION**

Public participation on Type 3 decisions is both a goal of the Growth Management Act and requirement of county code. This form provides a basic outline of a project’s public participation plan. Large projects may warrant development of a separate communications plan.

<p><b>Name of Project</b></p>	<p>Notice for Type 1 Permit Appeal Hearings</p>
<p><b>Project Description</b></p>	<p>Amendments to the notice of open record hearing requirements associated with Type 1 permit appeals, in order to streamline the practice and ensure the code aligns with practice.</p>
<p><b>What area the Minimum Notice Requirements? (See SCC 30.73.050)</b></p>	<p><b><u>Planning commission phase</u></b>                  At least 10 days before the planning commission public hearing</p> <p><b><u>Notice contents</u></b></p> <ul style="list-style-type: none"> <li>• Description of the proposal</li> <li>• Assigned county file number and contact person</li> <li>• Date, time, and place of the public hearing and how an interested party may submit comments on the proposal</li> <li>• Web location where the full text of the proposed amendment and relevant documents or studies may be reviewed.</li> </ul> <p><b><u>Notification methods</u></b></p> <ul style="list-style-type: none"> <li>• By one publication in the official county newspaper</li> <li>• On the official county website.</li> <li>• Other as prescribed by PDS</li> </ul> <p><b><u>Council consideration phase</u></b>                  At least 10 days before the council public hearing</p> <p><b><u>Notice contents</u></b></p> <ul style="list-style-type: none"> <li>• Per RCW <a href="#">36.70A.035</a>, WAC <a href="#">365-196-600</a>, and the county’s public participation plan</li> </ul> <p><b><u>Notification methods</u></b></p> <ul style="list-style-type: none"> <li>• Publication in the official county newspaper</li> <li>• On the official county website.</li> </ul> <p>By mail or email to those parties that provide contact information and either provide oral or written testimony at the planning commission hearing or request notice in writing at or before the planning commission hearing</p>
<p><b>Who are the Internal Audiences?</b></p>	<p>Permitting division (primarily planners and senior permit techs) as well as the Hearing Examiner’s office, Snohomish County Council, long range planning and permitting), and the Executive’s office</p>

<b>Who are the External Audiences?</b>	Permit applicants and general public (ie parties of record), WA Dept of Commerce, and Master Builders Association of King and Snohomish County	
<b>Are any Additional Outreach Techniques Proposed? If yes, which ones?</b>	SEPA Notification per SCC 30.61.110 and SCC 30.70.045(2) and mention in planning committee news and updates.	
<b>What areas of the county will the project affect? Countywide? Rural? Urban? No Geographic Implications?</b>	No geographic impact as this proposal addresses how appeal hearings are noticed for all type 1 permits.	
<b><i>Is there evidence of any of the specific populations in affected areas? If yes, which ones?</i></b>	N/A	
<b>What level of public involvement is expected for the overall outreach strategy? Inform? Educate? Ask for Advice? Shared Decision-making?</b>	Primarily focused on informing and sharing decision making for the public, although feedback is always appreciated.	
<b>What is the Relationship to Other Outreach Efforts</b>	This would be a minor code amendment that will likely not interest the majority of the general public.	
<b>Prelim. Outreach Milestones</b>	<b>Date</b>	<b>Comments</b>
Provide proposed code amendment to: PDS staff	November 9, 2021	
Outreach to External audiences for information and comment	December 29, 2021	
Publish environmental checklist and SEPA determination, send to SEPA contact list, including the contacts listed above.	February 3, 2022	
Planning commission and council public hearing notice	March 2022 and TBD	

**Request for Code Amendment**

*This form shall be used to request an amendment to Title 30 of the Snohomish County Code.*

Name of Code Amendment	Notice of Hearing Requirements for SEPA Appeals Related to Type 1 Permits
Requested By	PDS Permitting Division (Michael Dobesh)
Please describe the nature of the problem that is driving a need for the code amendment.	<p>SCC 30.71.080 provides for the hearing examiner to process notice of hearing for Type 1 appeals. It also indicates that PDS shall provide notice of hearings for SEPA appeals related to Type 1 permits and short subdivisions, but the requirements are different from each.</p> <p>Historically, the examiner’s office has provided notice of hearing for these types of appeals. I cannot find any instance of PDS providing notice, except one being done now (May 2021) due to PDS not wanting to have a noticing error (this resulted in notice being provided from both the HE and PDS).</p> <p>There is no need for PDS to provide notice for such appeals, because the examiner’s office does so under SCC 30.71.080(2). Further, SCC 30.71.080(4) seems to indicate that notice be provided to parties of record for the underlying project, even if they are not party to the appeal.</p>
What are the specific code sections proposed to be amended?	SCC 30.71.080.
Is the proposal consistent with the GMA Comprehensive Plan? (Cite relevant policy or policies)	
Please provide any other information that you believe may be pertinent to this request. (Proposed code language, copies of code interpretations, court or administrative (including hearing examiner) decisions, Revised Code of Washington, Washington Administrative Code, etc.)	<p>30.71.080 Notice of Type 1 open record appeal hearing.</p> <p>(1) Notice of open record appeal hearings conducted pursuant to this chapter shall be provided at least 14 calendar days prior to the hearing and shall contain a description of the proposal and list of permits requested, the county file number and contact person, the date, time, and place for the hearing, and any other information determined appropriate by the department.</p> <p>(2) Except where notice has already been given pursuant to the combined notice provisions of SCC 30.70.080(2), <del>and except where notice has been provided by the department pursuant to subsections (3) and (4) below,</del> the hearing examiner’s office shall give notice of all open record appeal hearings by first class mail (unless otherwise required herein) to:</p> <ul style="list-style-type: none"> <li>(a) The appellant;</li> <li>(b) The appellant’s agent/representative, if any;</li> <li>(c) The department whose decision is being appealed (by interoffice mail);</li> <li>(d) The applicant;</li> <li>(e) Applicant’s agent/representative, if any; and</li> <li>(f) All parties of record.</li> </ul> <p><del>(3) The department shall give notice of an open record appeal hearing for a decision made pursuant to chapter 30.41B SCC:</del></p> <ul style="list-style-type: none"> <li><del>(a) In the same manner as required by SCC 30.72.030; and</del></li> <li><del>(b) By first class mail to parties of record.</del></li> </ul> <p><del>(4) The department shall give notice of an open record appeal hearing for a SEPA determination made pursuant to chapter 30.61 SCC by first class mail to:</del></p> <ul style="list-style-type: none"> <li><del>(a) Parties of record;</del></li> <li><del>(b) Agencies with jurisdiction as disclosed by documents in the appeal file; and</del></li> </ul>



~~(e) All taxpayers of record and known site addresses within 500 feet of any boundaries of the property subject to the appeal; provided that the mailing radius shall be increased if necessary to correspond with any larger radius required for the notice of any discretionary permit or action associated with the determination under appeal.~~

## Titcomb, Sarah

---

**From:** Titcomb, Sarah  
**Sent:** Tuesday, November 9, 2021 11:55 AM  
**To:** Samy, Rebecca; Barnett, Tom; Craig, Richard; Abbott, Stacey; Machen, Joshua; Ghazanfarpour, Haleh; Steepy, Sarah; Farrell, Brian; Lenz, Jennifer; Faller, Holly; Swaim, Emily; Skattum, Sarah; Kirchberg, Jacqueline  
**Subject:** Draft Code Project: Noticing for Type 1 Appeal Hearings  
**Attachments:** DRAFT Planning Commission briefing\_Staff Report\_11-9-21.docx

Good Morning,

Hope all is well! Before I was out of the office for a few months, I was assigned a code project related to the noticing process for Type 1 permit open record appeal hearings. I am now picking this project back up, and have begun to dive into the details. This project is still in its preliminary stages and malleable, so I wanted to brief you all and check in about any comments, concerns, or ideas. Please feel free to respond to this email with any thoughts, or we can schedule a time when I can speak with your team. I am also reaching out to the Hearing Examiner's office for their thoughts, although I have not yet gone out to the broader public.

Within SCC 30.71.080, the noticing process for Type 1 open record appeals is the responsibility of either the Hearing Examiner's office or PDS depending on the type of permit being appealed. Additionally, the method for noticing also differs based on the permit type. The permitting division suggested that amendments to this section of code could streamline the process and align code with current practice.

Below is the current list of proposed changes and brief rationale. I've also attached a very rough draft staff report that has more details.

- SCC 30.71.080(2) along with (3) and (4) creates three different public notice processes to be performed by either the Hearing Examiner or PDS based on the type of Type 1 permit under appeal. This is not efficient, in line with current practice, nor required by state code. (3) and (4) are proposed to be eliminated to streamline the noticing process. The remaining language will clarify that the Hearing Examiner's office will notice all Type 1 open record appeals by mailing the notice to required parties.
- SCC 30.71.080(2) requires that the Hearing Examiner utilize first class mail or interoffice mail to notice the open record appeal hearings. The proposed amendments will change this language to allow for emailing. With the popularity of email correspondence and change in permit processing at PDS to only except digital permit submissions, requiring that notice be physically mailed is not reasonable, cost effective, or the most efficient method of delivery. Further, removing the specific reference to first class mail would align with language in SCC 30.72.100 related to noticing for Type 2 appeals.

Please let me know what you think.

Thanks for your help,  
Sarah

**Sarah Titcomb** | *Principal Planner*  
[Snohomish County Planning and Development Services](#)  
3000 Rockefeller Avenue M/S 604 | Everett, WA 98201

Permit Appeal Index #1-0015.pdf  
425.6222 | [sean.titcomb@snoco.org](mailto:sean.titcomb@snoco.org)  
she/her

Work Schedule: Monday through Wednesday 8am to 5pm

NOTICE: All emails, and attachments, sent to and from Snohomish County are public records and may be subject to disclosure pursuant to the Public Records Act (RCW 42.56)



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**Snohomish County**  
**Planning and Development Services**

3000 Rockefeller Ave., M/S 604  
Everett, WA 98201-4046  
(425) 388-3311  
[www.snoco.org](http://www.snoco.org)

**MEMORANDUM**

TO: Snohomish County Planning Commission

FROM: Sarah Titcomb, Principal Planner

SUBJECT: Staff Report: Proposed Code Amendments to Open Record Appeal Hearing Notice Requirements for Type 1 Permits

DATE: **November xx, 2021**

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**Dave Somers**  
*County Executive*

**INTRODUCTION**

The purpose of this staff report is to provide information on a non-project proposal to amend Chapter 30.71 of the Snohomish County Code (SCC). The proposed code amendments to SCC 30.71.080 will work to streamline the noticing process for Type 1 permit open record appeal hearings. Attachment A presents the staff recommended draft findings.

**PROPOSAL BACKGROUND**

SCC 30.71.080 describes the process to notice Type 1 open record appeal hearings. The Hearing Examiner is required to process the open record appeal hearing notices for all Type 1 permits except for appeals related to short subdivision administrative decisions made pursuant to Chapter 30.41B SCC, and to State Environmental Policy Act (SEPA) determinations made pursuant to Chapter 30.61 SCC. Notice of the open record appeal hearing for these two exceptions must be processed by Snohomish County Planning and Development Services (PDS) pursuant to SCC 30.71.080(3) and (4).

The party responsible for noticing open record appeal hearings of administrative decisions has changed over time. In 1966, the Board of Adjustment was given the authority, then in 1972 it was the Zoning Adjuster, and the Hearing Examiner took over in 1979. In 1980, the then Department of Community Affairs (a precursor to PDS) became responsible for noticing, although by 1986 the responsibility was split much like it is today between PDS and the Hearing Examiner.

The current noticing requirements for the three categories of Type 1 open record appeal hearings described in SCC 30.71.080 are different, although this has not always been the case. From 1966 to 1986, one party was responsible for noticing the appeal hearings utilizing one methodology. In 1986 this changed and there became three separate processes that have not changed significantly to this day. Currently, SCC 30.71.080 requires:

- The Hearing Examiner to provide 14 days notice for Type 1 open record appeal hearings by first class mail to the appellant, the appellant's representative, the department whose decision is



being appealed (by interoffice mail), the applicant, the applicant's representative, and all parties of record.

- PDS must provide notice for short subdivision open record appeal hearings in the same manner that is required for Type 2 permit open record hearings per SCC 30.72.030, and to all parties of record by first class mail. SCC 30.72.030 requires 15 days notice of the hearing, and the notice must be published in the official county newspaper, mailed, and posted on the subject property per SCC 30.70.045. The mailed notices must be sent to all taxpayers of record within 500 to 1,500 feet of the subject property depending on the zoning and size of the property. The notice must also be mailed to cities or towns that have municipal boundaries within one mile of the subject property, to the Washington State Department of Transportation if the property is adjacent to a state right-of-way or within two miles of a state or municipal airport, and to any other local, state, or federal agency, or to any person or organization as determined appropriate.
- Finally, PDS is required to give 14 days notice for open record appeal hearings related to a SEPA determination by first class mail to all parties of record, agencies with jurisdiction as disclosed by documents in the appeal file, and to all taxpayers of record and known site addresses within 500 feet of any boundaries of the property subject to appeal.

Requiring two different parties to notice the Type 1 open record appeal hearings utilizing three different processes causes confusion and delays. Additionally, the recent practice has been for the Hearing Examiner to provide public notice for all Type 1 open record appeal hearings. To simplify the noticing process and align code with current practice, the code amendments propose that the Hearing Examiner provide notice for all Type 1 open record appeal hearings utilizing one methodology that is in compliance with state requirements.

WAC 365-196-845 states that counties are not required to provide a process for administrative appeals. Further, if the county does allow appeals, the WAC provides examples of reasonable notice measures, although it does not provide specific requirements. It is a similar story for SEPA appeals pursuant to Chapter 43.21C RCW. Therefore, Snohomish County is able to determine the best method to notice Type 1 open record appeal hearings. Based on research and practice, staff recommends that the process include emailing the time, date, and place of the open record appeal hearing to the: appellant, the appellant's representative, the department whose decision is being appealed (if outside of PDS), the applicant, the applicant's representative, and all parties of record. First class mail will no longer be a requirement when individuals or organizations have provided their email address.

The specific provisions to be amended are described below:

- SCC 30.71.080(2) along with (3) and (4) creates three different public notice processes to be performed by either the Hearing Examiner or PDS based on the type of Type 1 permit under appeal. This is not efficient, in line with current practice, nor required by state code. (3) and (4) are proposed to be eliminated to streamline the noticing process. The remaining language will clarify that the Hearing Examiner's office will notice all Type 1 open record appeals by mailing the notice to required parties.
- SCC 30.71.080(2) requires that the Hearing Examiner utilize first class mail or interoffice mail to notice the open record appeal hearings. The proposed amendments will change this language to allow for emailing. With the popularity of email correspondence and change in permit processing at PDS to only except digital permit submissions, requiring that notice be physically mailed is not

reasonable, cost effective, or the most efficient method of delivery. Further, removing the specific reference to first class mail would align with language in SCC 30.72.100 related to noticing for Type 2 appeals.

**PROPOSED CODE AMENDMENTS**

Table 1 on the following page outlines the proposed code amendments, as well as the findings in support of the proposed code amendments subsection by subsection.

The proposed code amendments will streamline the noticing process and align code with current practice by:

- Eliminating PDS from the noticing process for Type 1 open record appeal hearings,
- Specifying one noticing process, and
- Removing the requirement to mail notices by first class mail.

**TABLE 1: SUMMARY OF PROPOSED CODE CHANGES AND FINDINGS**

Proposed Change	Finding
<p><b>30.71.080 Notice of Type 1 open record appeal hearing</b></p> <p>(2) Except where notice has already been given pursuant to the combined notice provisions of SCC 30.70.080(2), <del>((and except where notice has been provided by the department pursuant to subsections (3) and (4) below,))</del> the hearing examiner’s office shall <u>mail</u> <del>((give))</del> notice of all open record appeal hearings <del>((by first class mail))</del> (unless otherwise required herein) to:</p> <p>(a) The appellant;                      (b) The appellant’s agent/representative, if any;                      (c) The department whose decision is being appealed <del>((by interoffice mail))</del>;                      (d) The applicant;                      (e) Applicant’s agent/representative, if any; and                      (f) All parties of record.</p>	<p>Reference to subsections (3) and (4) are proposed to be removed along with the requirement to send notice through first class mail or interoffice mail. Emailing notices to parties that have provided their email address is the most efficient method to provide notice, it is cost effective, and it aligns with current practice as well as the method described in SCC 30.72.100 to be utilized by the County Clerk for Type 2 appeal hearings. Changing the language to include “mail” instead of “first class mail” also allows for the Hearing Examiner to mail hard copies of notices to parties without email addresses or who have requested it. The “mail” language also allows for flexibility as technologies evolve.</p>
<p><del>((3) The department shall give notice of an open record appeal hearing for a decision made pursuant to chapter 30.41B SCC:</del></p> <p><del>(a) In the same manner as required by SCC 30.72.030; and</del>  <del>(b) By first class mail to parties of record.)</del></p>	<p>State law does not require an appeal process for administrative decisions (Type 1 permits), therefore there is not a requirement for there to be three different noticing procedures and two different responsible parties. Prior to 1986, there was only one process for noticing and one party responsible for noticing. This proposed amendment would revert to this previous stance, would align with current practice, and would comply with state requirements.</p>

~~((4) The department shall give notice of an open record appeal hearing for a SEPA determination made pursuant to chapter 30.61 SCC by first class mail to:~~

~~(a) Parties of record;~~

~~(b) Agencies with jurisdiction as disclosed by documents in the appeal file; and~~

~~(c) All taxpayers of record and known site addresses within 500 feet of any boundaries of the property subject to the appeal; provided that the mailing radius shall be increased if necessary to correspond with any larger radius required for the notice of any discretionary permit or action associated with the determination under appeal.))~~

See above.

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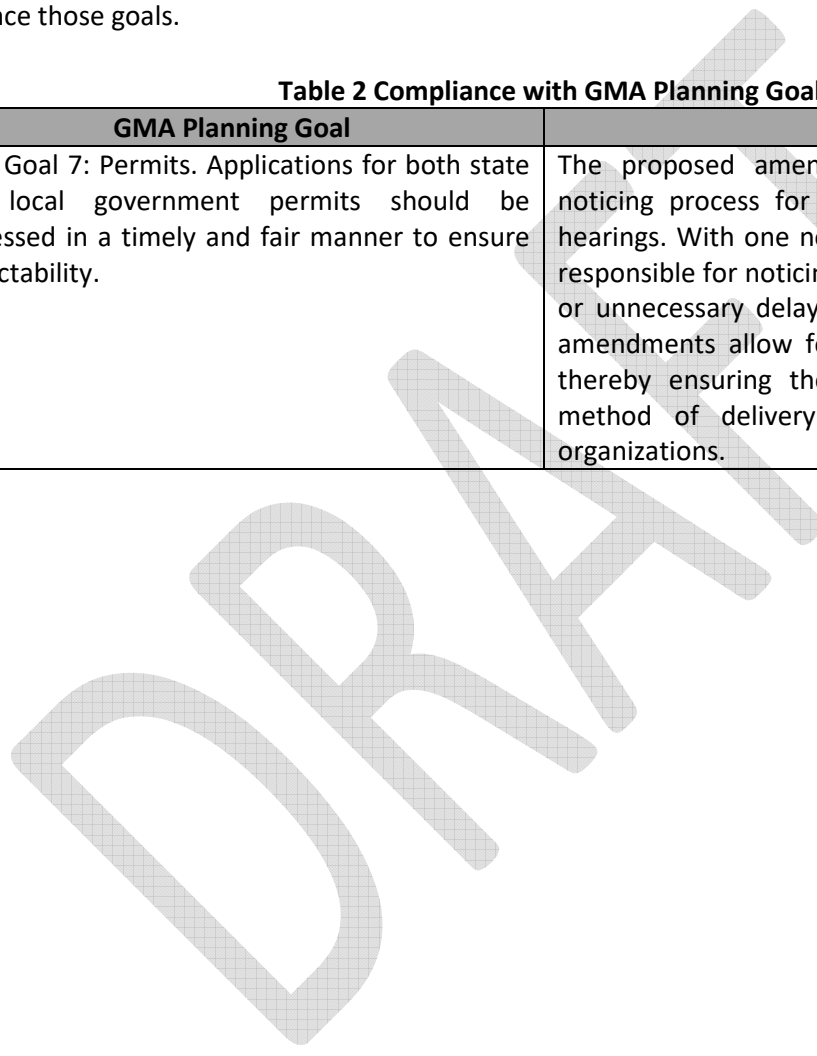
The following analysis provides a summary of the proposed code amendments compliance with state law, as well as regional, countywide, and county Comprehensive Plan policies.

**Compliance with State Law**

The GMA planning goals adopted in RCW 36.70A.020 guides the development and adoption of comprehensive plans and development regulations. The goals are not priority-listed. The GMA goals guide the policies in the Snohomish County’s GMACP, and require consistency between the GMACP and implementing development regulations. Table 2 identifies the reasonably related GMA planning goals listed in RCW 36.70A.020, and describes how the proposed code amendments are consistent with and advance those goals.

**Table 2 Compliance with GMA Planning Goals**

GMA Planning Goal	Finding
<p>GMA Goal 7: Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.</p>	<p>The proposed amendments will streamline the noticing process for Type 1 open record appeal hearings. With one noticing process and one party responsible for noticing, there will not be confusion or unnecessary delays. Additionally, the proposed amendments allow for the notice to be emailed, thereby ensuring the most efficient and timely method of delivery for many individuals and organizations.</p>



### Compliance with the Multi-County Planning Policies

Multi-County planning policies (MPPs) within Vision 2050 “provide for coordination and consistency among the metropolitan counties sharing common borders and related regional issues as required by RCW 36.70A.100, and, in order to ensure consistency, the directive policies of the MPPs need to have a binding effect.” (Summit-Waller Community Association, et al, v Pierce County). Table 3 identifies the reasonably related MPPs within Vision 2050, and describes how the proposed code amendments are consistent with and advance those goals.

**Table 3 Compliance with MPPs**

<b>MPP</b>	<b>Finding</b>
MPP-DP-47: Streamline development standards and regulations for residential and commercial development and public projects, especially in centers and high-capacity transit station areas, to provide flexibility and to accommodate a broader range of project types consistent with the regional vision.	Type 1 permits often relate to residential and commercial development proposals, and the proposed amendments will streamline the noticing process for appeal hearings.

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**Compliance with the Countywide Planning Policies**

Countywide Planning Policies (CPPs) establish a countywide framework for developing and adopting county, city, and town comprehensive plans. The role of the CPPs is to coordinate comprehensive plans of jurisdictions in the same county in regard to regional issues and issues affecting common borders (RCW 36.70A.100). Table 4 identifies the reasonably related CPPs, and describes how the proposed code amendments are consistent with and advance those goals.

**Table 4 Compliance with CPPs**

CPP Reasonable Measure	Finding
HO-11: The county and cities should consider the economic implications of proposed building and land use regulations so that the broader public benefit they serve is achieved with the least additional cost to housing.	The proposed amendments will streamline the noticing process for appeal hearings while still complying with all state and local requirements. The effect will be to ensure a broad public benefit without unnecessary costs.

**Compliance with the Snohomish County Comprehensive Plan**

The proposed code amendments will better achieve, comply with, and implement the policies identified in Table 5 contained in the County’s GMACP.

**Table 5 Compliance with the Comprehensive Plan**

GMACP Policy	Finding
ED Policy 2.A.3: To ensure timeliness, responsiveness, and increased efficiency, the county shall develop and maintain a program of periodic review of the permitting process to eliminate unnecessary administrative procedures that do not respond to legal requirements for public review and citizen input.	The proposed amendments will eliminate unnecessary administrative noticing procedures for certain Type 1 open record appeal hearings, and thus make the process more efficient.

**Environmental Review**

A State Environmental Policy Act (SEPA) Determination is required for the proposed code amendments. A SEPA Determination of Non-Significance was issued on xxx.

**Notification of State Agencies**

Pursuant to RCW 36.70A.106, a notice of intent to adopt the proposed regulations and standards was transmitted to the Washington State Department of Commerce on \_\_\_\_\_.

**Staff Recommendation:**

Staff recommends approval of the proposed code amendments and findings contained in this staff report.

**Action Requested**

The Planning Commission is requested to hold a public hearing, consider the proposed code amendments, and provide a recommendation to the County Council. The Planning Commission can

recommend approval of the amendments with supporting findings of fact as proposed or modified, deny the proposal with findings, or amend the proposal with appropriate findings.

cc: Ken Klein, Executive Director  
Mike McCrary, PDS Director  
David Killingstad, PDS Manager  
Michael Dobesh, PDS Manager  
Ryan Countryman, Legislative Analyst  
[INSERT OTHER NAMES AS APPROPRIATE]

Attachments

Attachment A: Proposed Code Amendments, Draft Findings of Fact and Conclusions

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**Attachment A**  
**Open Record Appeal Hearing Notice Requirements for Type 1 Permits**  
**Proposed Code Amendments Findings of Fact and Conclusions**

**Section 1.** Snohomish County Planning Commission adopts the following findings in support of this ordinance:

- A. The foregoing recitals are adopted as findings as if set forth in full herein.
- B. This ordinance will amend Title 30 SCC to revise Snohomish County Code (SCC) 30.71.080. The code amendments will increase the efficiency of the noticing process for Type 1 open record appeal hearings by: 1) eliminating PDS from the noticing process; and 2) requiring one noticing process.
- C. In developing the code amendments, the County considered the goals of the GMA identified in RCW 36.70A.020, specifically the goal related to ensuring permits are processed in a timely and predictable manner. The proposed regulations are reasonably related to, and necessary for, the advancement of the before mentioned GMA planning goal.
- D. The code amendments will allow Chapters 30.71 SCC to achieve, comply with, and implement the below listed policy contained in the County's GMACP, by providing regulations that are predictable and streamlined.
  - 1. ED Policy 2.A.3: "To ensure timeliness, responsiveness, and increased efficiency, the county shall develop and maintain a program of periodic review of the permitting process to eliminate unnecessary administrative procedures that do not respond to legal requirements for public review and citizen input."
- E. The proposed code amendments are consistent with the record:
  - 1. SCC 30.71.080(2) is amended to eliminate reference to subsections (3) and (4) and to remove reference to sending notices through first class mail or interoffice mail. Emailing notices to parties that have provided their email address is the most efficient method to provide notice, it is cost effective, and it aligns with current practice as well as the method described in SCC 30.72.100 to be utilized by the County Clerk for Type 2 appeal hearings. Changing the language to include "mail" instead of "first class mail" also allows for the Hearing Examiner to mail hard copies of notices to parties without email addresses or who have requested it. The "mail" language also allows for flexibility as technologies evolve.
  - 2. SCC 30.71.080(3) and (4) are removed as State law does not require an appeal process for administrative decisions (Type 1 permits), therefore there is not a requirement for there to be three different noticing procedures and two different responsible parties. Prior to 1986, there was only one process for noticing and one party responsible for noticing. This proposed amendment would revert to this previous stance, would align with current practice, and would comply with state requirements.
- F. The proposed code amendments are consistent with the record as set forth in the PDS Staff Report dated **xxx, 2021**.



G. Procedural requirements:

1. The proposal is a Type 3 legislative action under SCC 30.73.010 and 30.73.020.
2. As required by RCW 30.70A.106(1), a notice of intent to adopt the proposed code amendments was transmitted to the Washington State Department of Commerce for distribution to state agencies on **xxx, 2021**.
3. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with respect to this non-project action have been satisfied through the completion of an environmental checklist and the issuance of a determination of non-significance on **xxx, 2021**.
4. The public participation process used in the adoption of the proposed code amendments has complied with all applicable requirements of the GMA and SCC.
5. As required by RCW 30.70A.370, the Washington State Attorney General last issued an advisory memorandum in December 2015 entitled "Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property" to help local governments avoid unconstitutional takings of private property. The process outlined in the State Attorney General's 2015 advisory memorandum was used by the County in objectively evaluating the regulatory changes in this ordinance.

**Section 2.** The County Council makes the following conclusions:

- A. The proposal is consistent with Washington State law and Snohomish County Code.
- B. The proposal is consistent with the GMACP and with the goals, objectives, and policies of the GPP.
- C. The County has complied with all SEPA requirements with respect to this non-project action.
- D. The regulations proposed by this ordinance do not result in an unconstitutional taking of private property for a public purpose.
- E. The County complied with the state and local public participation requirements under the GMA and chapter 30.73 SCC.

**Section 3.** The County Council bases its findings and conclusions on the entire record of the County Council, including all testimony and exhibits. Any finding, which should be deemed a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.

## Titcomb, Sarah

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**From:** Titcomb, Sarah  
**Sent:** Tuesday, November 30, 2021 4:28 PM  
**To:** Samy, Rebecca; Barnett, Tom; Craig, Richard; Abbott, Stacey; Machen, Joshua; Ghazanfarpour, Haleh; Steepy, Sarah; Farrell, Brian; Lenz, Jennifer; Faller, Holly; Swaim, Emily; Skattum, Sarah; Kirchberg, Jacqueline  
**Subject:** RE: Draft Code Project: Noticing for Type 1 Appeal Hearings  
**Attachments:** DRAFT Planning Commission briefing\_Staff Report\_11-30-21.docx

Good Afternoon,

I hope you all had a relaxing long weekend full of family, friends, and delicious food!

I wanted to check in about the proposed code amendments to the noticing process for Type 1 open record appeal hearings (SCC 30.71.080). The proposal is briefly discussed in the below email and more thoroughly explained in the attached draft staff report. If you have any comments, questions, or concerns, please feel free to shoot them to me by this Friday December 3<sup>rd</sup>. Comments can definitely be sent or discussed after this Friday, although I plan to go to the public with this version of the draft proposed changes early next week.

Best Regards,  
Sarah

**Sarah Titcomb** | *Principal Planner*  
[Snohomish County Planning and Development Services](#)  
3000 Rockefeller Avenue M/S 604 | Everett, WA 98201  
425-262-2128 | [sarah.titcomb@snoco.org](mailto:sarah.titcomb@snoco.org)  
she/her

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**From:** Titcomb, Sarah  
**Sent:** Tuesday, November 9, 2021 11:55 AM  
**To:** Samy, Rebecca <Rebecca.Samy@co.snohomish.wa.us>; Barnett, Tom <Tom.Barnett@co.snohomish.wa.us>; Craig, Richard <Richard.Craig@co.snohomish.wa.us>; Abbott, Stacey <stacey.abbott@co.snohomish.wa.us>; Machen, Joshua <Joshua.Machen@co.snohomish.wa.us>; Ghazanfarpour, Haleh <Haleh.Ghazanfarpour@co.snohomish.wa.us>; Steepy, Sarah <Sarah.Steepy@co.snohomish.wa.us>; Farrell, Brian <Brian.Farrell@co.snohomish.wa.us>; Lenz, Jennifer <Jennifer.Lenz@co.snohomish.wa.us>; Faller, Holly <Holly.Faller@co.snohomish.wa.us>; Swaim, Emily <Emily.Swaim@co.snohomish.wa.us>; Skattum, Sarah <Sarah.Skattum@co.snohomish.wa.us>; Kirchberg, Jacqueline <jacqueline.kirchberg@co.snohomish.wa.us>  
**Subject:** Draft Code Project: Noticing for Type 1 Appeal Hearings

Good Morning,

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## Titcomb, Sarah

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**From:** Samy, Rebecca  
**Sent:** Tuesday, November 30, 2021 5:18 PM  
**To:** Titcomb, Sarah  
**Subject:** RE: Draft Code Project: Noticing for Type 1 Appeal Hearings

Hi there,

I have no comments on this one. It looks great why to find efficiency in the process. Why three processes? I would love to hear the back story on that one.

Take care,

**Rebecca Samy** (she/her/hers) | *Principal Planner, CFM*

[Snohomish County Planning and Development Services](#)

3000 Rockefeller Avenue M/S 604 | Everett, WA 98201

425-262-2283 | [rebecca.samy@snoco.org](mailto:rebecca.samy@snoco.org)

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**From:** Titcomb, Sarah <Sarah.Titcomb@co.snohomish.wa.us>

**Sent:** Tuesday, November 30, 2021 4:28 PM

**To:** Samy, Rebecca <Rebecca.Samy@co.snohomish.wa.us>; Barnett, Tom <Tom.Barnett@co.snohomish.wa.us>; Craig, Richard <Richard.Craig@co.snohomish.wa.us>; Abbott, Stacey <stacey.abbott@co.snohomish.wa.us>; Machen, Joshua <Joshua.Machen@co.snohomish.wa.us>; Ghazanfarpour, Haleh <Haleh.Ghazanfarpour@co.snohomish.wa.us>; Steepy, Sarah <Sarah.Steepy@co.snohomish.wa.us>; Farrell, Brian <Brian.Farrell@co.snohomish.wa.us>; Lenz, Jennifer <Jennifer.Lenz@co.snohomish.wa.us>; Faller, Holly <Holly.Faller@co.snohomish.wa.us>; Swaim, Emily <Emily.Swaim@co.snohomish.wa.us>; Skattum, Sarah <Sarah.Skattum@co.snohomish.wa.us>; Kirchberg, Jacqueline <jacqueline.kirchberg@co.snohomish.wa.us>

**Subject:** RE: Draft Code Project: Noticing for Type 1 Appeal Hearings

Good Afternoon,

I hope you all had a relaxing long weekend full of family, friends, and delicious food!

I wanted to check in about the proposed code amendments to the noticing process for Type 1 open record appeal hearings (SCC 30.71.080). The proposal is briefly discussed in the below email and more thoroughly explained in the attached draft staff report. If you have any comments, questions, or concerns, please feel free to shoot them to me by this Friday December 3<sup>rd</sup>. Comments can definitely be sent or discussed after this Friday, although I plan to go to the public with this version of the draft proposed changes early next week.

Best Regards,  
Sarah

**Sarah Titcomb** | *Principal Planner*

[Snohomish County Planning and Development Services](#)

3000 Rockefeller Avenue M/S 604 | Everett, WA 98201

## Titcomb, Sarah

---

**From:** Lenz, Jennifer  
**Sent:** Wednesday, December 1, 2021 12:41 PM  
**To:** Titcomb, Sarah  
**Subject:** RE: Draft Code Project: Noticing for Type 1 Appeal Hearings

Hi Sarah, thank you for including me. 😊 I don't have any comments.

**All the best,**

**Jennifer Lenz** | *Land Development Specialist Lead*

*Certified Floodplain Manager*

[Snohomish County Planning and Development Services](#)

3000 Rockefeller Avenue M/S 604 | Everett, WA 98201

Direct line 425- x 262-2823 | [jennifer.lenz@snoco.org](mailto:jennifer.lenz@snoco.org)

Normal work hours Monday – Thursday 630am to 4 pm Fridays 630 am to 1030 am

NOTICE: All emails, and attachments, sent to and from Snohomish County are public records and may be subject to disclosure pursuant to the Public Records Act (RCW 42.56)

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**From:** Titcomb, Sarah <Sarah.Titcomb@co.snohomish.wa.us>

**Sent:** Tuesday, November 30, 2021 4:28 PM

**To:** Samy, Rebecca <Rebecca.Samy@co.snohomish.wa.us>; Barnett, Tom <Tom.Barnett@co.snohomish.wa.us>; Craig, Richard <Richard.Craig@co.snohomish.wa.us>; Abbott, Stacey <stacey.abbott@co.snohomish.wa.us>; Machen, Joshua <Joshua.Machen@co.snohomish.wa.us>; Ghazanfarpour, Haleh <Haleh.Ghazanfarpour@co.snohomish.wa.us>; Steepy, Sarah <Sarah.Steepy@co.snohomish.wa.us>; Farrell, Brian <Brian.Farrell@co.snohomish.wa.us>; Lenz, Jennifer <Jennifer.Lenz@co.snohomish.wa.us>; Faller, Holly <Holly.Faller@co.snohomish.wa.us>; Swaim, Emily <Emily.Swaim@co.snohomish.wa.us>; Skattum, Sarah <Sarah.Skattum@co.snohomish.wa.us>; Kirchberg, Jacqueline <jacqueline.kirchberg@co.snohomish.wa.us>

**Subject:** RE: Draft Code Project: Noticing for Type 1 Appeal Hearings

Good Afternoon,

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Best Regards,  
Sarah

**Sarah Titcomb** | *Principal Planner*

[Snohomish County Planning and Development Services](#)

3000 Rockefeller Avenue M/S 604 | Everett, WA 98201

425-262-2128 | [sarah.titcomb@snoco.org](mailto:sarah.titcomb@snoco.org)

she/her

## Titcomb, Sarah

---

**From:** Titcomb, Sarah  
**Sent:** Tuesday, November 9, 2021 11:51 AM  
**To:** Camp, Peter; Yount, Pamela  
**Cc:** Hearing.Examiner  
**Subject:** Draft Code Project: Noticing for Type 1 Appeal Hearings  
**Attachments:** DRAFT Planning Commission briefing\_Staff Report\_11-9-21.docx

Good Morning,

Hope all is well with you both! I've been out of the office for a few months, although I understand my coworkers were able to complete my final permitting projects without too many snafus! I am now fully in the long range planning division of PDS, and before I left I was assigned a code project related to the noticing process for Type 1 permit open record appeal hearings. I am now picking this project back up, and have begun to dive into the details.

Within SCC 30.71.080, the noticing process for Type 1 open record appeals is the responsibility of either the Hearing Examiner's office or PDS depending on the type of permit being appealed. Additionally, the method for noticing also differs based on the permit type. The permitting division suggested that amendments to this section of code could streamline the process and align code with current practice. I'd like to share with you the research and staff report draft I've produced thus far so that we can discuss your thoughts, opinions, and ideas. We can do this over email or on a Teams meeting, whatever works best for you.

This project is still in its preliminary stages and malleable. Further, the proposed amendments have not yet been shared with a larger public audience as I wanted to check in with you first.

Below is the current list of proposed changes and brief rationale. I've also attached a very rough draft staff report that has more details.

- SCC 30.71.080(2) along with (3) and (4) creates three different public notice processes to be performed by either the Hearing Examiner or PDS based on the type of Type 1 permit under appeal. This is not efficient, in line with current practice, nor required by state code. (3) and (4) are proposed to be eliminated to streamline the noticing process. The remaining language will clarify that the Hearing Examiner's office will notice all Type 1 open record appeals by mailing the notice to required parties.
- SCC 30.71.080(2) requires that the Hearing Examiner utilize first class mail or interoffice mail to notice the open record appeal hearings. The proposed amendments will change this language to allow for emailing. With the popularity of email correspondence and change in permit processing at PDS to only except digital permit submissions, requiring that notice be physically mailed is not reasonable, cost effective, or the most efficient method of delivery. Further, removing the specific reference to first class mail would align with language in SCC 30.72.100 related to noticing for Type 2 appeals.

Please let me know what you think.

Thanks for your help,  
Sarah

**Sarah Titcomb** | *Principal Planner*

Permit Appeal: Index #1 - 0016.pdf  
[Snohomish County Planning and Development Services](#)  
3000 Rockefeller Avenue M/S 604 | Everett, WA 98201  
425-262-2128 | [sarah.titcomb@snoco.org](mailto:sarah.titcomb@snoco.org)  
she/her

Work Schedule: Monday through Wednesday 8am to 5pm

NOTICE: All emails, and attachments, sent to and from Snohomish County are public records and may be subject to disclosure pursuant to the Public Records Act (RCW 42.56)



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**Snohomish County**  
**Planning and Development Services**

3000 Rockefeller Ave., M/S 604  
Everett, WA 98201-4046  
(425) 388-3311  
[www.snoco.org](http://www.snoco.org)

**MEMORANDUM**

TO: Snohomish County Planning Commission

FROM: Sarah Titcomb, Principal Planner

SUBJECT: Staff Report: Proposed Code Amendments to Open Record Appeal Hearing Notice Requirements for Type 1 Permits

DATE: **November xx, 2021**

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**Dave Somers**  
*County Executive*

**INTRODUCTION**

The purpose of this staff report is to provide information on a non-project proposal to amend Chapter 30.71 of the Snohomish County Code (SCC). The proposed code amendments to SCC 30.71.080 will work to streamline the noticing process for Type 1 permit open record appeal hearings. Attachment A presents the staff recommended draft findings.

**PROPOSAL BACKGROUND**

SCC 30.71.080 describes the process to notice Type 1 open record appeal hearings. The Hearing Examiner is required to process the open record appeal hearing notices for all Type 1 permits except for appeals related to short subdivision administrative decisions made pursuant to Chapter 30.41B SCC, and to State Environmental Policy Act (SEPA) determinations made pursuant to Chapter 30.61 SCC. Notice of the open record appeal hearing for these two exceptions must be processed by Snohomish County Planning and Development Services (PDS) pursuant to SCC 30.71.080(3) and (4).

The party responsible for noticing open record appeal hearings of administrative decisions has changed over time. In 1966, the Board of Adjustment was given the authority, then in 1972 it was the Zoning Adjuster, and the Hearing Examiner took over in 1979. In 1980, the then Department of Community Affairs (a precursor to PDS) became responsible for noticing, although by 1986 the responsibility was split much like it is today between PDS and the Hearing Examiner.

The current noticing requirements for the three categories of Type 1 open record appeal hearings described in SCC 30.71.080 are different, although this has not always been the case. From 1966 to 1986, one party was responsible for noticing the appeal hearings utilizing one methodology. In 1986 this changed and there became three separate processes that have not changed significantly to this day. Currently, SCC 30.71.080 requires:

- The Hearing Examiner to provide 14 days notice for Type 1 open record appeal hearings by first class mail to the appellant, the appellant's representative, the department whose decision is

being appealed (by interoffice mail), the applicant, the applicant's representative, and all parties of record.

- PDS must provide notice for short subdivision open record appeal hearings in the same manner that is required for Type 2 permit open record hearings per SCC 30.72.030, and to all parties of record by first class mail. SCC 30.72.030 requires 15 days notice of the hearing, and the notice must be published in the official county newspaper, mailed, and posted on the subject property per SCC 30.70.045. The mailed notices must be sent to all taxpayers of record within 500 to 1,500 feet of the subject property depending on the zoning and size of the property. The notice must also be mailed to cities or towns that have municipal boundaries within one mile of the subject property, to the Washington State Department of Transportation if the property is adjacent to a state right-of-way or within two miles of a state or municipal airport, and to any other local, state, or federal agency, or to any person or organization as determined appropriate.
- Finally, PDS is required to give 14 days notice for open record appeal hearings related to a SEPA determination by first class mail to all parties of record, agencies with jurisdiction as disclosed by documents in the appeal file, and to all taxpayers of record and known site addresses within 500 feet of any boundaries of the property subject to appeal.

Requiring two different parties to notice the Type 1 open record appeal hearings utilizing three different processes causes confusion and delays. Additionally, the recent practice has been for the Hearing Examiner to provide public notice for all Type 1 open record appeal hearings. To simplify the noticing process and align code with current practice, the code amendments propose that the Hearing Examiner provide notice for all Type 1 open record appeal hearings utilizing one methodology that is in compliance with state requirements.

WAC 365-196-845 states that counties are not required to provide a process for administrative appeals. Further, if the county does allow appeals, the WAC provides examples of reasonable notice measures, although it does not provide specific requirements. It is a similar story for SEPA appeals pursuant to Chapter 43.21C RCW. Therefore, Snohomish County is able to determine the best method to notice Type 1 open record appeal hearings. Based on research and practice, staff recommends that the process include emailing the time, date, and place of the open record appeal hearing to the: appellant, the appellant's representative, the department whose decision is being appealed (if outside of PDS), the applicant, the applicant's representative, and all parties of record. First class mail will no longer be a requirement when individuals or organizations have provided their email address.

The specific provisions to be amended are described below:

- SCC 30.71.080(2) along with (3) and (4) creates three different public notice processes to be performed by either the Hearing Examiner or PDS based on the type of Type 1 permit under appeal. This is not efficient, in line with current practice, nor required by state code. (3) and (4) are proposed to be eliminated to streamline the noticing process. The remaining language will clarify that the Hearing Examiner's office will notice all Type 1 open record appeals by mailing the notice to required parties.
- SCC 30.71.080(2) requires that the Hearing Examiner utilize first class mail or interoffice mail to notice the open record appeal hearings. The proposed amendments will change this language to allow for emailing. With the popularity of email correspondence and change in permit processing at PDS to only except digital permit submissions, requiring that notice be physically mailed is not



reasonable, cost effective, or the most efficient method of delivery. Further, removing the specific reference to first class mail would align with language in SCC 30.72.100 related to noticing for Type 2 appeals.

**PROPOSED CODE AMENDMENTS**

Table 1 on the following page outlines the proposed code amendments, as well as the findings in support of the proposed code amendments subsection by subsection.

The proposed code amendments will streamline the noticing process and align code with current practice by:

- Eliminating PDS from the noticing process for Type 1 open record appeal hearings,
- Specifying one noticing process, and
- Removing the requirement to mail notices by first class mail.

**TABLE 1: SUMMARY OF PROPOSED CODE CHANGES AND FINDINGS**

Proposed Change	Finding
<p><b>30.71.080 Notice of Type 1 open record appeal hearing</b></p> <p>(2) Except where notice has already been given pursuant to the combined notice provisions of SCC 30.70.080(2), <del>((and except where notice has been provided by the department pursuant to subsections (3) and (4) below,))</del> the hearing examiner’s office shall <u>mail</u> <del>((give))</del> notice of all open record appeal hearings <del>((by first class mail))</del> (unless otherwise required herein) to:</p> <p>(a) The appellant;                      (b) The appellant’s agent/representative, if any;                      (c) The department whose decision is being appealed <del>((by interoffice mail))</del>;                      (d) The applicant;                      (e) Applicant’s agent/representative, if any; and                      (f) All parties of record.</p>	<p>Reference to subsections (3) and (4) are proposed to be removed along with the requirement to send notice through first class mail or interoffice mail. Emailing notices to parties that have provided their email address is the most efficient method to provide notice, it is cost effective, and it aligns with current practice as well as the method described in SCC 30.72.100 to be utilized by the County Clerk for Type 2 appeal hearings. Changing the language to include “mail” instead of “first class mail” also allows for the Hearing Examiner to mail hard copies of notices to parties without email addresses or who have requested it. The “mail” language also allows for flexibility as technologies evolve.</p>
<p><del>((3) The department shall give notice of an open record appeal hearing for a decision made pursuant to chapter 30.41B SCC:</del></p> <p><del>(a) In the same manner as required by SCC 30.72.030; and</del>  <del>(b) By first class mail to parties of record.)</del></p>	<p>State law does not require an appeal process for administrative decisions (Type 1 permits), therefore there is not a requirement for there to be three different noticing procedures and two different responsible parties. Prior to 1986, there was only one process for noticing and one party responsible for noticing. This proposed amendment would revert to this previous stance, would align with current practice, and would comply with state requirements.</p>

~~((4) The department shall give notice of an open record appeal hearing for a SEPA determination made pursuant to chapter 30.61 SCC by first class mail to:~~

~~(a) Parties of record;~~

~~(b) Agencies with jurisdiction as disclosed by documents in the appeal file; and~~

~~(c) All taxpayers of record and known site addresses within 500 feet of any boundaries of the property subject to the appeal; provided that the mailing radius shall be increased if necessary to correspond with any larger radius required for the notice of any discretionary permit or action associated with the determination under appeal.))~~

See above.

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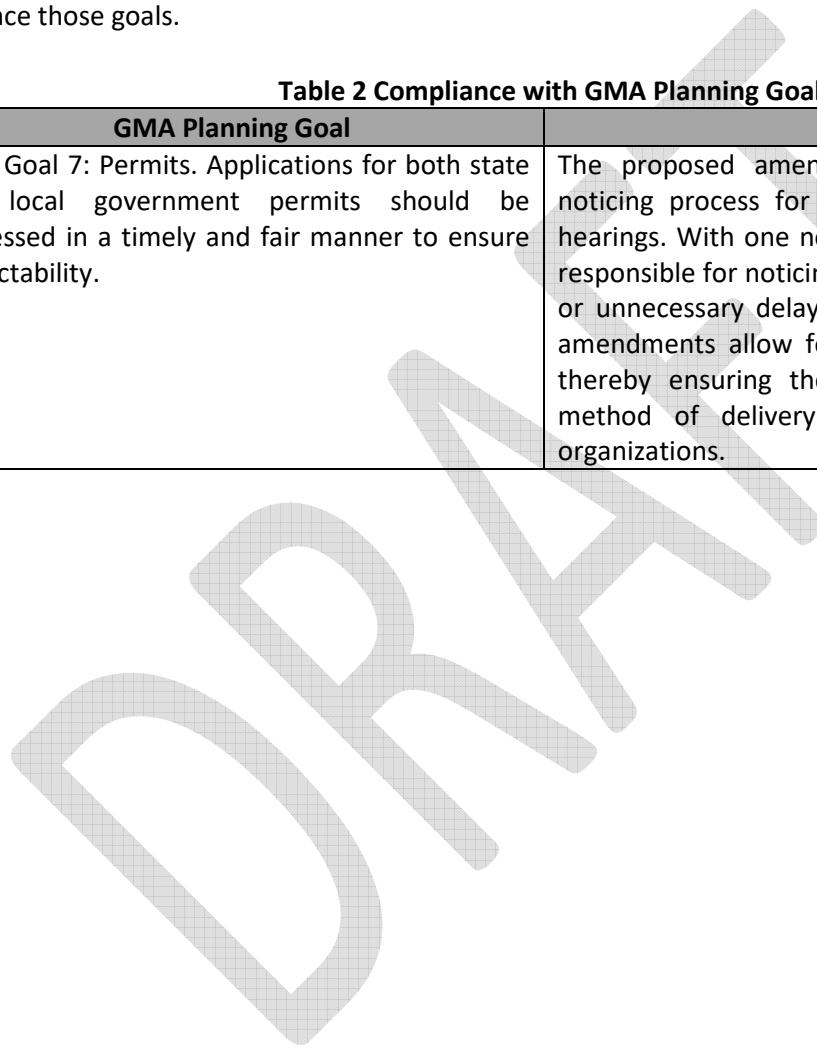
The following analysis provides a summary of the proposed code amendments compliance with state law, as well as regional, countywide, and county Comprehensive Plan policies.

**Compliance with State Law**

The GMA planning goals adopted in RCW 36.70A.020 guides the development and adoption of comprehensive plans and development regulations. The goals are not priority-listed. The GMA goals guide the policies in the Snohomish County’s GMACP, and require consistency between the GMACP and implementing development regulations. Table 2 identifies the reasonably related GMA planning goals listed in RCW 36.70A.020, and describes how the proposed code amendments are consistent with and advance those goals.

**Table 2 Compliance with GMA Planning Goals**

GMA Planning Goal	Finding
<p>GMA Goal 7: Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.</p>	<p>The proposed amendments will streamline the noticing process for Type 1 open record appeal hearings. With one noticing process and one party responsible for noticing, there will not be confusion or unnecessary delays. Additionally, the proposed amendments allow for the notice to be emailed, thereby ensuring the most efficient and timely method of delivery for many individuals and organizations.</p>



### Compliance with the Multi-County Planning Policies

Multi-County planning policies (MPPs) within Vision 2050 “provide for coordination and consistency among the metropolitan counties sharing common borders and related regional issues as required by RCW 36.70A.100, and, in order to ensure consistency, the directive policies of the MPPs need to have a binding effect.” (Summit-Waller Community Association, et al, v Pierce County). Table 3 identifies the reasonably related MPPs within Vision 2050, and describes how the proposed code amendments are consistent with and advance those goals.

**Table 3 Compliance with MPPs**

<b>MPP</b>	<b>Finding</b>
MPP-DP-47: Streamline development standards and regulations for residential and commercial development and public projects, especially in centers and high-capacity transit station areas, to provide flexibility and to accommodate a broader range of project types consistent with the regional vision.	Type 1 permits often relate to residential and commercial development proposals, and the proposed amendments will streamline the noticing process for appeal hearings.

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**Compliance with the Countywide Planning Policies**

Countywide Planning Policies (CPPs) establish a countywide framework for developing and adopting county, city, and town comprehensive plans. The role of the CPPs is to coordinate comprehensive plans of jurisdictions in the same county in regard to regional issues and issues affecting common borders (RCW 36.70A.100). Table 4 identifies the reasonably related CPPs, and describes how the proposed code amendments are consistent with and advance those goals.

**Table 4 Compliance with CPPs**

CPP Reasonable Measure	Finding
HO-11: The county and cities should consider the economic implications of proposed building and land use regulations so that the broader public benefit they serve is achieved with the least additional cost to housing.	The proposed amendments will streamline the noticing process for appeal hearings while still complying with all state and local requirements. The effect will be to ensure a broad public benefit without unnecessary costs.

**Compliance with the Snohomish County Comprehensive Plan**

The proposed code amendments will better achieve, comply with, and implement the policies identified in Table 5 contained in the County’s GMACP.

**Table 5 Compliance with the Comprehensive Plan**

GMACP Policy	Finding
ED Policy 2.A.3: To ensure timeliness, responsiveness, and increased efficiency, the county shall develop and maintain a program of periodic review of the permitting process to eliminate unnecessary administrative procedures that do not respond to legal requirements for public review and citizen input.	The proposed amendments will eliminate unnecessary administrative noticing procedures for certain Type 1 open record appeal hearings, and thus make the process more efficient.

**Environmental Review**

A State Environmental Policy Act (SEPA) Determination is required for the proposed code amendments. A SEPA Determination of Non-Significance was issued on xxx.

**Notification of State Agencies**

Pursuant to RCW 36.70A.106, a notice of intent to adopt the proposed regulations and standards was transmitted to the Washington State Department of Commerce on \_\_\_\_\_.

**Staff Recommendation:**

Staff recommends approval of the proposed code amendments and findings contained in this staff report.

**Action Requested**

The Planning Commission is requested to hold a public hearing, consider the proposed code amendments, and provide a recommendation to the County Council. The Planning Commission can

recommend approval of the amendments with supporting findings of fact as proposed or modified, deny the proposal with findings, or amend the proposal with appropriate findings.

cc: Ken Klein, Executive Director  
Mike McCrary, PDS Director  
David Killingstad, PDS Manager  
Michael Dobesh, PDS Manager  
Ryan Countryman, Legislative Analyst  
[INSERT OTHER NAMES AS APPROPRIATE]

Attachments

Attachment A: Proposed Code Amendments, Draft Findings of Fact and Conclusions

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**Attachment A**  
**Open Record Appeal Hearing Notice Requirements for Type 1 Permits**  
**Proposed Code Amendments Findings of Fact and Conclusions**

**Section 1.** Snohomish County Planning Commission adopts the following findings in support of this ordinance:

- A. The foregoing recitals are adopted as findings as if set forth in full herein.
- B. This ordinance will amend Title 30 SCC to revise Snohomish County Code (SCC) 30.71.080. The code amendments will increase the efficiency of the noticing process for Type 1 open record appeal hearings by: 1) eliminating PDS from the noticing process; and 2) requiring one noticing process.
- C. In developing the code amendments, the County considered the goals of the GMA identified in RCW 36.70A.020, specifically the goal related to ensuring permits are processed in a timely and predictable manner. The proposed regulations are reasonably related to, and necessary for, the advancement of the before mentioned GMA planning goal.
- D. The code amendments will allow Chapters 30.71 SCC to achieve, comply with, and implement the below listed policy contained in the County's GMACP, by providing regulations that are predictable and streamlined.
  - 1. ED Policy 2.A.3: "To ensure timeliness, responsiveness, and increased efficiency, the county shall develop and maintain a program of periodic review of the permitting process to eliminate unnecessary administrative procedures that do not respond to legal requirements for public review and citizen input."
- E. The proposed code amendments are consistent with the record:
  - 1. SCC 30.71.080(2) is amended to eliminate reference to subsections (3) and (4) and to remove reference to sending notices through first class mail or interoffice mail. Emailing notices to parties that have provided their email address is the most efficient method to provide notice, it is cost effective, and it aligns with current practice as well as the method described in SCC 30.72.100 to be utilized by the County Clerk for Type 2 appeal hearings. Changing the language to include "mail" instead of "first class mail" also allows for the Hearing Examiner to mail hard copies of notices to parties without email addresses or who have requested it. The "mail" language also allows for flexibility as technologies evolve.
  - 2. SCC 30.71.080(3) and (4) are removed as State law does not require an appeal process for administrative decisions (Type 1 permits), therefore there is not a requirement for there to be three different noticing procedures and two different responsible parties. Prior to 1986, there was only one process for noticing and one party responsible for noticing. This proposed amendment would revert to this previous stance, would align with current practice, and would comply with state requirements.
- F. The proposed code amendments are consistent with the record as set forth in the PDS Staff Report dated **xxx, 2021**.

G. Procedural requirements:

1. The proposal is a Type 3 legislative action under SCC 30.73.010 and 30.73.020.
2. As required by RCW 30.70A.106(1), a notice of intent to adopt the proposed code amendments was transmitted to the Washington State Department of Commerce for distribution to state agencies on **xxx, 2021**.
3. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with respect to this non-project action have been satisfied through the completion of an environmental checklist and the issuance of a determination of non-significance on **xxx, 2021**.
4. The public participation process used in the adoption of the proposed code amendments has complied with all applicable requirements of the GMA and SCC.
5. As required by RCW 30.70A.370, the Washington State Attorney General last issued an advisory memorandum in December 2015 entitled "Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property" to help local governments avoid unconstitutional takings of private property. The process outlined in the State Attorney General's 2015 advisory memorandum was used by the County in objectively evaluating the regulatory changes in this ordinance.

**Section 2.** The County Council makes the following conclusions:

- A. The proposal is consistent with Washington State law and Snohomish County Code.
- B. The proposal is consistent with the GMACP and with the goals, objectives, and policies of the GPP.
- C. The County has complied with all SEPA requirements with respect to this non-project action.
- D. The regulations proposed by this ordinance do not result in an unconstitutional taking of private property for a public purpose.
- E. The County complied with the state and local public participation requirements under the GMA and chapter 30.73 SCC.

**Section 3.** The County Council bases its findings and conclusions on the entire record of the County Council, including all testimony and exhibits. Any finding, which should be deemed a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.



## Titcomb, Sarah

---

**From:** Camp, Peter  
**Sent:** Monday, November 22, 2021 3:52 PM  
**To:** Hearing.Examiner; Titcomb, Sarah  
**Subject:** RE: Draft Code Project: Noticing for Type 1 Appeal Hearings

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I concur with the proposed changes.

Comments:

1. Are you confident that “mail” subsumes email? Has the Prosecutor’s Office weighed in on this? Absent a court decision holding that, I am concerned that a court would give mail its historic meaning, i.e., USPS, not email.
2. References to “Hearing Examiner’s Office” should be to “Office of Hearings Administration”
3. FYI we changed our rules of procedure as follows:

1.8 Notice Requirements Whenever an action of a Party of Record or principal party requires notice to other Party of Record or principal party, notice shall be made according to the procedures specified in the Snohomish County Code. If no procedure is specified, notice shall be sent by: (a) electronic mail (unless the receiving party previously filed an objection to receiving notices by electronic mail with the Office of Hearings Administration); (b) first class regular mail; or (c) by personal service. A declaration of service or other proof of service shall be filed with the Office of Hearings Administration. A list of Parties of Record or principal parties may be obtained from the Clerk. Attachments to electronic mail must be in a common standard file format that can be opened and reviewed by the recipient without purchasing software, such as the portable document format (PDF).

Peter Camp  
(he/him/his)

---

**From:** Titcomb, Sarah <[Sarah.Titcomb@co.snohomish.wa.us](mailto:Sarah.Titcomb@co.snohomish.wa.us)>  
**Sent:** Tuesday, November 9, 2021 11:51 AM  
**To:** Camp, Peter <[peter.camp@snoco.org](mailto:peter.camp@snoco.org)>; Yount, Pamela <[Pamela.Yount@co.snohomish.wa.us](mailto:Pamela.Yount@co.snohomish.wa.us)>  
**Cc:** Hearing.Examiner <[Hearing.Examiner@co.snohomish.wa.us](mailto:Hearing.Examiner@co.snohomish.wa.us)>  
**Subject:** Draft Code Project: Noticing for Type 1 Appeal Hearings

Good Morning,

Hope all is well with you both! I’ve been out of the office for a few months, although I understand my coworkers were able to complete my final permitting projects without too many snafus! I am now fully in the long range planning division of PDS, and before I left I was assigned a code project related to the noticing process for Type 1 permit open record appeal hearings. I am now picking this project back up, and have begun to dive into the details.

Within SCC 30.71.080, the noticing process for Type 1 open record appeals is the responsibility of either the Hearing Examiner’s office or PDS depending on the type of permit being appealed. Additionally, the method for noticing also differs based on the permit type. The permitting division suggested that amendments to this section of code could streamline the process and align code with current practice. I’d like to share with you the research and staff report draft

## Titcomb, Sarah

---

**From:** Titcomb, Sarah  
**Sent:** Tuesday, December 21, 2021 11:31 AM  
**To:** Eco, Debbie; Countryman, Ryan  
**Cc:** Killingstad, David  
**Subject:** Draft Code Project: Noticing for Type 2 Appeal Hearings  
**Attachments:** DRAFT Planning Commission briefing\_Staff Report\_12-21-21.docx

Good Morning,

Hope all is well with you both, and that you are having a lovely holiday season if you celebrate! I am working on a proposed code development project with PDS's long range planning division that includes a minor proposed amendment to Chapter 30.72 SCC that relates to the noticing of Type 2 closed record appeal hearings. The proposed language would clarify that the council clerk could email notices of Type 2 closed record appeal hearings, and the proposed language would align with proposed changes within Chapter 30.71 SCC. I wanted to provide an opportunity for you both to review this proposed change to Chapter 30.72 SCC to ensure it is in line with your current practice. Please let me know if you have any questions or concerns.

Below is the list of proposed changes to both Chapters 30.72 and 30.71 SCC and a brief rationale. I've also attached a rough draft staff report that has more details for the code development proposal.

- SCC 30.72.100(1) states that the council clerk will mail notice of Type 2 closed record appeal hearings to parties of record. The proposed amendment will change this language to clarify that the council clerk can email notices unless a party of record specified the need for physical mail. The proposed change will align code with current practice and will be consistent with the proposed changes to Chapter 30.71 SCC.
- SCC 30.71.080(2) along with (3) and (4) creates three different public notice processes to be performed by either the Hearing Examiner or PDS based on the type of Type 1 permit under appeal. This is not efficient, in line with current practice, nor required by state code. (3) and (4) are proposed to be eliminated to streamline the noticing process. The remaining language will clarify that the Office of Hearings Administration will notice all Type 1 open record appeals by mailing the notice to required parties.
- SCC 30.71.080(2) requires that the Hearing Examiner utilize first class mail or interoffice mail to notice the open record appeal hearings. The proposed amendments will change this language to allow for emailing unless a party of record has specified a need for physical mail. With the popularity of email correspondence and change in permit processing at PDS to only accept digital permit submissions, requiring that notice be physically mailed is not reasonable, cost effective, or the most efficient method of delivery in most situations.

Please let me know what you think.

Thank you for your help,  
Sarah

**Sarah Titcomb** | *Principal Planner*

[Snohomish County Planning and Development Services](#) | Long Range Planning Division

3000 Rockefeller Avenue M/S 604 | Everett, WA 98201

425-262-2128 | [sarah.titcomb@snoco.org](mailto:sarah.titcomb@snoco.org)

she/her

Permit Appeal Index #1 0037.pdf  
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**Snohomish County**  
**Planning and Development Services**

3000 Rockefeller Ave., M/S 604  
Everett, WA 98201-4046  
(425) 388-3311  
[www.snoco.org](http://www.snoco.org)

**MEMORANDUM**

TO: Snohomish County Planning Commission

FROM: Sarah Titcomb, Principal Planner

SUBJECT: Staff Report: Proposed Code Amendments related to Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits

DATE: **January xx, 2022**

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**Dave Somers**  
*County Executive*

**INTRODUCTION**

The purpose of this staff report is to provide information on a non-project proposal to amend Chapters 30.71 and 30.72 of the Snohomish County Code (SCC). The proposed code amendments to SCC 30.71.080 will work to streamline the noticing process for Type 1 permit open record appeal hearings. The proposed amendment to SCC 30.72.100 will align the code for the noticing of Type 2 permit closed record appeal hearings with practice. Attachment A presents the staff recommended draft findings.

**PROPOSAL BACKGROUND**

Type 1 permits are administratively decided and processed per Chapter 30.71 SCC, whereas Type 2 permits are decided by the Hearing Examiner after a public hearing and processed per Chapter 30.72 SCC. Appeals of Type 1 and Type 2 decisions are both considered administrative, although Type 1 appeal hearings are open record and heard by the Hearing Examiner, and Type 2 appeal hearings are closed record and heard by the County Council. The proposed amendments concern the public noticing processes for Type 1 and Type 2 appeal hearing once the Hearing Examiner or County Council has scheduled the date, time, and location of the hearing.

SCC 30.71.080 describes the process to notice Type 1 open record appeal hearings. The Hearing Examiner (Office of Hearings Administration) is required to process open record appeal hearing notices for all Type 1 permits except for appeals related to short subdivision administrative decisions made pursuant to Chapter 30.41B SCC, and to State Environmental Policy Act (SEPA) determinations made pursuant to Chapter 30.61 SCC. Notice of the open record appeal hearing for these two exceptions must be processed by Snohomish County Planning and Development Services (PDS) pursuant to SCC 30.71.080(3) and (4).

The party responsible for noticing open record appeal hearings of administrative decisions has changed over time. In 1966, the Board of Adjustment was given the authority, then in 1972 it was the Zoning Adjuster, and the Hearing Examiner took over in 1979. In 1980, the then Department of Community Affairs (a precursor to PDS) became responsible for noticing, although by 1986 the responsibility was split much like it is today between PDS and the Office of Hearings Administration.

The current noticing requirements for the three categories of Type 1 open record appeal hearings described in SCC 30.71.080 are different, although this has not always been the case. From 1966 to 1986, one party was responsible for noticing the appeal hearings utilizing one methodology. In 1986 this changed and there became three separate processes that have not changed significantly to this day.

Currently, SCC 30.71.080 requires:

- The Office of Hearings Administration to provide 14 days notice for Type 1 open record appeal hearings by first class mail to the appellant, the appellant's representative, the department whose decision is being appealed (by interoffice mail), the applicant, the applicant's representative, and all parties of record.
- PDS to provide notice for short subdivision open record appeal hearings in the same manner that is required for Type 2 permit open record hearings per SCC 30.72.030, and to all parties of record by first class mail. SCC 30.72.030 requires 15 days notice of the hearing, and the notice must be published in the official county newspaper, mailed, and posted on the subject property per SCC 30.70.045. The mailed notices must be sent to all taxpayers of record within 500 to 1,500 feet of the subject property depending on the zoning and size of the property. The notice must also be mailed to cities or towns that have municipal boundaries within one mile of the subject property, to the Washington State Department of Transportation if the property is adjacent to a state right-of-way or within two miles of a state or municipal airport, and to any other local, state, or federal agency, or to any person or organization as determined appropriate.
- PDS to give 14 days notice for open record appeal hearings related to a SEPA determination by first class mail to all parties of record, agencies with jurisdiction as disclosed by documents in the appeal file, and to all taxpayers of record and known site addresses within 500 feet of any boundaries of the property subject to appeal.

Requiring two different parties to notice Type 1 open record appeal hearings utilizing three different processes causes confusion and delays. Additionally, the recent practice has been for the Office of Hearings Administration to provide public notice for all Type 1 open record appeal hearings. To simplify the noticing process and align code with current practice, the code amendments propose that the Office of Hearings Administration provide notice for all Type 1 open record appeal hearings utilizing one methodology that is in compliance with state requirements.

SCC 30.72.100 describes the noticing process for Type 2 closed record appeal hearings, and (1) states that the council clerk "will mail notice of the appeal" to all parties of record. The current practice is for the council clerk to email the notice information (date, time, and location of the scheduled hearing) to all parties of record. The proposed amendments to SCC 30.72.100(1) will clarify that emailed notices of closed record hearings are allowed. The proposed amendments will also create consistent language between SCC 30.71.080(2) and SCC 30.72.100(1) related to emailing or mailing notices.

Washington Administrative Code (WAC) 365-196-845 and the Revised Code of Washington (RCW) 36.70B.110(9) state that counties are not required to provide a process for administrative appeals. If the County does allow appeals, the WAC provides examples of reasonable notice measures, although it does not provide specific requirements. It is a similar story for SEPA appeals pursuant to Chapter 43.21C RCW. Therefore, Snohomish County has the discretion to determine the best method to notice both Type 1 and Type 2 appeal hearings. Based on research and practice, staff recommends that the Type 1 process include emailing the time, date, and place of the open record appeal hearing to the: appellant, the appellant's

representative, the department whose decision is being appealed (if outside of PDS), the applicant, the applicant's representative, and all other parties of record. The process for noticing Type 2 appeal hearings will not change except to clarify that U.S mail is not required. First class mail in particular will no longer be a requirement when individuals or organizations have provided their email address. When parties of record do not provide their email address, or request correspondence by physical mail, the Office of Hearings Administration or council clerk will mail notices by U.S mail.

The specific provisions in Chapters 30.71 and 30.72 SCC to be amended are described below:

- SCC 30.71.080(2) along with (3) and (4) creates three different public notice processes to be performed by either the Hearing Examiner or PDS based on the type of Type 1 permit under appeal. This is not efficient, in line with current practice, nor required by state code. (3) and (4) are proposed to be eliminated to streamline the noticing process. The remaining language will clarify that the Office of Hearings Administration will notice all Type 1 open record appeals by mailing the notice to required parties.
- SCC 30.71.080(2) requires that the Hearing Examiner utilize first class mail or interoffice mail to notice the open record appeal hearings. The proposed amendments will change this language to allow for emailing unless a party of record has specified a need for physical mail. With the popularity of email correspondence and change in permit processing at PDS to only accept digital permit submissions, requiring that notice be physically mailed is not reasonable, cost effective, or the most efficient method of delivery in most situations.
- SCC 30.72.100(1) states that the council clerk will mail notice of Type 2 closed record appeal hearings to parties of record. The proposed amendments will change this language to clarify that the council clerk can email notices unless a party of record specified the need for physical mail. The proposed change will align code with current practice, and will be consistent with the proposed changes to Chapter 30.71 SCC.

### **PROPOSED CODE AMENDMENTS**

Table 1 outlines the proposed code amendments, as well as the findings in support of the proposed code amendments subsection by subsection.

The proposed code amendments will streamline the noticing process and align code with current practice by:

- Eliminating PDS from the noticing process for Type 1 open record appeal hearings,
- Specifying a single noticing process to be used by the office adjudicating the administrative hearing, with a presumption of emailing notice unless otherwise indicated, and
- Removing the requirement to mail notices by first class mail.

**TABLE 1: SUMMARY OF PROPOSED CODE CHANGES AND FINDINGS**

Proposed Change	Finding
<p><b>30.71.080 Notice of Type 1 open record appeal hearing</b></p> <p>(2) Except where notice has already been given pursuant to the combined notice provisions of SCC 30.70.080(2), <del>((and except where notice has been provided by the department pursuant to subsections (3) and (4) below,))</del> the <u>Office of Hearings Administration</u> <del>((hearing examiner's office))</del> shall give notice of all open record appeal hearings by <u>email</u> <del>((first class mail))</del> <u>(unless any of the below listed parties did not provide an email address or requested notice via U.S Mail</u> <del>((otherwise required herein))</del>) to:</p> <p>(a) The appellant;                      (b) The appellant's agent/representative, if any;                      (c) The department whose decision is being appealed <del>((by interoffice mail))</del>;                      (d) The applicant;                      (e) Applicant's agent/representative, if any; and                      (f) All parties of record.</p>	<p>Reference to subsections (3) and (4) are proposed to be removed along with the requirement to send notice through first class mail or interoffice mail. Emailing notices to parties that have provided their email address is the most efficient method to provide notice, it is cost effective, and it aligns with current practice. Changing the language to email with the option to physically mail notice as necessary, allows for Hearing Examiner to have flexibility and for the code to align with practice.</p> <p>Changes are also proposed to how the Hearing Examiner is referenced as the office is now known as the Office of Hearings Administration. Proposed changes will align code with the office's official name.</p>
<p><del>((3) The department shall give notice of an open record appeal hearing for a decision made pursuant to chapter 30.41B SCC:</del></p> <p><del>(a) In the same manner as required by SCC 30.72.030; and</del>  <del>(b) By first class mail to parties of record.))</del></p>	<p>State law does not require an appeal process for administrative decisions (Type 1 permits), therefore there is not a requirement for there to be three different noticing procedures and two different responsible parties. Prior to 1986, there was only one process for noticing and one party responsible for noticing. This proposed amendment would revert to this previous stance, would align with current practice, and would comply with state requirements.</p>
<p><del>((4) The department shall give notice of an open record appeal hearing for a SEPA determination made pursuant to chapter 30.61 SCC by first class mail to:</del></p> <p><del>(a) Parties of record;</del>  <del>(b) Agencies with jurisdiction as disclosed by documents in the appeal file; and</del>  <del>(c) All taxpayers of record and known site addresses within 500 feet of any boundaries of the property subject to the appeal; provided that the mailing radius shall be increased if necessary to correspond with any larger radius required for the notice of any discretionary permit or action associated with the determination under appeal.))</del></p>	<p>See above.</p>

**30.72.100 Notice of Type 2 appeal**

(1) Within seven calendar days following the close of the appeal period and upon receipt of a timely filed and complete appeal, the council clerk will email (~~mail~~) notice of the appeal and of the date, time, and place of the closed record appeal hearing to all parties of record (unless any party of record did not provide an email address or requested notice via U.S Mail).

Proposed amendments to align the code with the practice of the council clerk and to ensure consistency between the appeal noticing provisions of Chapters 30.71 and 30.72 SCC.

DRAFT



The following analysis provides a summary of the proposed code amendments compliance with state law, as well as regional, countywide, and county Comprehensive Plan policies.

**Compliance with State Law**

The Growth Management Act (GMA) planning goals adopted in RCW 36.70A.020 guides the development and adoption of comprehensive plans and development regulations. The goals are not priority-listed. The GMA goals guide the policies in the Snohomish County’s GMA Comprehensive Plan (GMACP), and require consistency between the GMACP and implementing development regulations. Table 2 identifies the reasonably related GMA planning goals listed in RCW 36.70A.020, and describes how the proposed code amendments are consistent with and advance those goals.

**Table 2 Compliance with GMA Planning Goals**

GMA Planning Goal	Finding
<p>GMA Goal 7: Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.</p>	<p>The proposed amendments will streamline the noticing process for Type 1 open record appeal hearings. With one noticing process and one party responsible for noticing, there will not be confusion or unnecessary delays. Additionally, the proposed amendments allow for the notice for Type 1 and Type 2 appeal hearings to be emailed, thereby ensuring the most efficient and timely method of delivery for many individuals and organizations.</p>

**Compliance with the Multi-County Planning Policies**

Multi-County Planning Policies (MPPs) within Vision 2050 “provide for coordination and consistency among the metropolitan counties sharing common borders and related regional issues as required by RCW 36.70A.100, and, in order to ensure consistency, the directive policies of the MPPs need to have a binding effect.” (Summit-Waller Community Association, et al, v Pierce County). Table 3 identifies the reasonably related MPPs within Vision 2050, and describes how the proposed code amendments are consistent with and advance those goals.

**Table 3 Compliance with MPPs**

MPP	Finding
<p>MPP-DP-47: Streamline development standards and regulations for residential and commercial development and public projects, especially in centers and high-capacity transit station areas, to provide flexibility and to accommodate a broader range of project types consistent with the regional vision.</p>	<p>Type 1 and 2 permits often relate to residential and commercial development proposals, and the proposed amendments will streamline the noticing process for appeal hearings.</p>

**Compliance with the Countywide Planning Policies**

Countywide Planning Policies (CPPs) establish a countywide framework for developing and adopting county, city, and town comprehensive plans. The role of the CPPs is to coordinate comprehensive plans of jurisdictions in the same county in regard to regional issues and issues affecting common borders (RCW 36.70A.100). Table 4 identifies the reasonably related CPPs, and describes how the proposed code amendments are consistent with and advance those goals.

**Table 4 Compliance with CPPs**

CPP Reasonable Measure	Finding
HO-11: The county and cities should consider the economic implications of proposed building and land use regulations so that the broader public benefit they serve is achieved with the least additional cost to housing.	The proposed amendments will streamline the noticing process for appeal hearings while still complying with all state and local requirements. The effect will be to ensure a broad public benefit without unnecessary costs.

**Compliance with the Snohomish County Comprehensive Plan**

The proposed code amendments will better achieve, comply with, and implement the policies identified in Table 5 contained in the County’s GMACP.

**Table 5 Compliance with the Comprehensive Plan**

GMACP Policy	Finding
ED Policy 2.A.3: To ensure timeliness, responsiveness, and increased efficiency, the county shall develop and maintain a program of periodic review of the permitting process to eliminate unnecessary administrative procedures that do not respond to legal requirements for public review and citizen input.	The proposed amendments will eliminate unnecessary administrative noticing procedures for certain Type 1 open record appeal hearings, and thus make the process more efficient.

**Environmental Review**

A State Environmental Policy Act (SEPA) Determination is required for the proposed code amendments. A SEPA Determination of Non-Significance was issued on xxx.

**Notification of State Agencies**

Pursuant to RCW 36.70A.106, a notice of intent to adopt the proposed regulations and standards was transmitted to the Washington State Department of Commerce on \_\_\_\_\_.

**Staff Recommendation:**

Staff recommends approval of the proposed code amendments and findings contained in this staff report.

**Action Requested**

The Planning Commission is requested to hold a public hearing, consider the proposed code amendments, and provide a recommendation to the County Council. The Planning Commission can

recommend approval of the amendments with supporting findings of fact as proposed or modified, deny the proposal with findings, or amend the proposal with appropriate findings.

cc: Ken Klein, Executive Director  
Mike McCrary, PDS Director  
David Killingstad, PDS Manager  
Michael Dobesh, PDS Manager  
Ryan Countryman, Legislative Analyst  
[INSERT OTHER NAMES AS APPROPRIATE]

Attachments

Attachment A: Proposed Code Amendments, Draft Findings of Fact and Conclusions

DRAFT

**Attachment A**  
**Open Record Appeal Hearing Notice Requirements for Type 1 Permits**  
**Proposed Code Amendments Findings of Fact and Conclusions**

**Section 1.** Snohomish County Planning Commission adopts the following findings in support of this ordinance:

- A. The foregoing recitals are adopted as findings as if set forth in full herein.
- B. This ordinance will amend Title 30 SCC to revise Snohomish County Code (SCC) 30.71.080. The code amendments will increase the efficiency of the noticing process for Type 1 open record appeal hearings by: 1) eliminating PDS from the noticing process; and 2) requiring one noticing process.
- C. In developing the code amendments, the County considered the goals of the GMA identified in RCW 36.70A.020, specifically the goal related to ensuring permits are processed in a timely and predictable manner. The proposed regulations are reasonably related to, and necessary for, the advancement of the before mentioned GMA planning goal.
- D. The code amendments will allow Chapters 30.71 SCC to achieve, comply with, and implement the below listed policy contained in the County's GMACP, by providing regulations that are predictable and streamlined.
  1. ED Policy 2.A.3: "To ensure timeliness, responsiveness, and increased efficiency, the county shall develop and maintain a program of periodic review of the permitting process to eliminate unnecessary administrative procedures that do not respond to legal requirements for public review and citizen input."
- E. The proposed code amendments are consistent with the record:
  1. SCC 30.71.080(2) is amended to eliminate reference to subsections (3) and (4) and to remove reference to sending notices through first class mail or interoffice mail. Emailing notices to parties that have provided their email address is the most efficient method to provide notice, it is cost effective, and it aligns with current practice. Changing the language to "email" allows for the Hearing Examiner to mail hard copies of notices to parties without email addresses or who have requested it.
  2. SCC 30.71.080(3) and (4) are removed as State law does not require an appeal process for administrative decisions, therefore there is not a requirement for there to be three different noticing procedures and two different responsible parties. Prior to 1986, there was only one process for noticing and one party responsible for noticing. This proposed amendment would revert to this previous stance, would align with current practice, and would comply with state requirements.
  3. SCC 30.72.100(1) is amended to clarify that notices for Type 2 appeal hearings can be emailed to parties of record inline with current practice. The amended language within SCC 30.72.100(1) is consistent with the amended language within SCC 30.71.080(2) related to emailing notices.
- F. The proposed code amendments are consistent with the record as set forth in the PDS Staff Report dated xxx, 2021.

G. Procedural requirements:

1. The proposal is a Type 3 legislative action under SCC 30.73.010 and 30.73.020.
2. As required by RCW 30.70A.106(1), a notice of intent to adopt the proposed code amendments was transmitted to the Washington State Department of Commerce for distribution to state agencies on **xxx, 2021**.
3. State Environmental Policy Act (SEPA), chapter 43.21C RCW, requirements with respect to this non-project action have been satisfied through the completion of an environmental checklist and the issuance of a determination of non-significance on **xxx, 2021**.
4. The public participation process used in the adoption of the proposed code amendments has complied with all applicable requirements of the GMA and SCC.
5. As required by RCW 30.70A.370, the Washington State Attorney General last issued an advisory memorandum in December 2015 entitled "Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property" to help local governments avoid unconstitutional takings of private property. The process outlined in the State Attorney General's 2015 advisory memorandum was used by the County in objectively evaluating the regulatory changes in this ordinance.

**Section 2.** The County Council makes the following conclusions:

- A. The proposal is consistent with Washington State law and Snohomish County Code.
- B. The proposal is consistent with the GMACP and with the goals, objectives, and policies of the GPP.
- C. The County has complied with all SEPA requirements with respect to this non-project action.
- D. The regulations proposed by this ordinance do not result in an unconstitutional taking of private property for a public purpose.
- E. The County complied with the state and local public participation requirements under the GMA and chapter 30.73 SCC.

**Section 3.** The County Council bases its findings and conclusions on the entire record of the County Council, including all testimony and exhibits. Any finding, which should be deemed a conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.

## Titcomb, Sarah

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**From:** Countryman, Ryan  
**Sent:** Tuesday, December 21, 2021 3:14 PM  
**To:** Titcomb, Sarah; Eco, Debbie  
**Cc:** Killingstad, David  
**Subject:** RE: Draft Code Project: Noticing for Type 2 Appeal Hearings

Hi Sarah,

This looks good! Having clear code authority to email notices instead of USPS will be a welcome change.

Ryan

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**From:** Titcomb, Sarah <Sarah.Titcomb@co.snohomish.wa.us>  
**Sent:** Tuesday, December 21, 2021 11:31 AM  
**To:** Eco, Debbie <Debbie.Eco@snoco.org>; Countryman, Ryan <Ryan.Countryman@co.snohomish.wa.us>  
**Cc:** Killingstad, David <david.killingstad@snoco.org>  
**Subject:** Draft Code Project: Noticing for Type 2 Appeal Hearings

Good Morning,

Hope all is well with you both, and that you are having a lovely holiday season if you celebrate! I am working on a proposed code development project with PDS's long range planning division that includes a minor proposed amendment to Chapter 30.72 SCC that relates to the noticing of Type 2 closed record appeal hearings. The proposed language would clarify that the council clerk could email notices of Type 2 closed record appeal hearings, and the proposed language would align with proposed changes within Chapter 30.71 SCC. I wanted to provide an opportunity for you both to review this proposed change to Chapter 30.72 SCC to ensure it is in line with your current practice. Please let me know if you have any questions or concerns.

Below is the list of proposed changes to both Chapters 30.72 and 30.71 SCC and a brief rationale. I've also attached a rough draft staff report that has more details for the code development proposal.

- SCC 30.72.100(1) states that the council clerk will mail notice of Type 2 closed record appeal hearings to parties of record. The proposed amendment will change this language to clarify that the council clerk can email notices unless a party of record specified the need for physical mail. The proposed change will align code with current practice and will be consistent with the proposed changes to Chapter 30.71 SCC.
- SCC 30.71.080(2) along with (3) and (4) creates three different public notice processes to be performed by either the Hearing Examiner or PDS based on the type of Type 1 permit under appeal. This is not efficient, in line with current practice, nor required by state code. (3) and (4) are proposed to be eliminated to streamline the noticing process. The remaining language will clarify that the Office of Hearings Administration will notice all Type 1 open record appeals by mailing the notice to required parties.
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## Titcomb, Sarah

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**From:** Eco, Debbie  
**Sent:** Tuesday, December 21, 2021 3:45 PM  
**To:** Countryman, Ryan; Titcomb, Sarah  
**Cc:** Killingstad, David  
**Subject:** RE: Draft Code Project: Noticing for Type 2 Appeal Hearings

I agree, I really like this change. That said, it has been past practice and Council policy that we send notice via USPS even though the Code may not require it in other land use hearings. I have treated appeal hearings the same way.

This came after meetings with the PA and was determined so that we were certain to reach all possible interested parties.

So even if the code does not require it, Ryan we may want to check with Laura Kisielius and Council to see how they want me to continue mailing practice.

*Debbie Eco, CMC*  
Clerk of the Council  
Snohomish County Council  
425-388-7038

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**From:** Countryman, Ryan <Ryan.Countryman@co.snohomish.wa.us>  
**Sent:** Tuesday, December 21, 2021 3:14 PM  
**To:** Titcomb, Sarah <Sarah.Titcomb@co.snohomish.wa.us>; Eco, Debbie <Debbie.Eco@snoco.org>  
**Cc:** Killingstad, David <david.killingstad@snoco.org>  
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**Sent:** Tuesday, December 21, 2021 11:31 AM  
**To:** Eco, Debbie <[Debbie.Eco@snoco.org](mailto:Debbie.Eco@snoco.org)>; Countryman, Ryan <[Ryan.Countryman@co.snohomish.wa.us](mailto:Ryan.Countryman@co.snohomish.wa.us)>  
**Cc:** Killingstad, David <[david.killingstad@snoco.org](mailto:david.killingstad@snoco.org)>  
**Subject:** Draft Code Project: Noticing for Type 2 Appeal Hearings

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Hope all is well with you both, and that you are having a lovely holiday season if you celebrate! I am working on a proposed code development project with PDS's long range planning division that includes a minor proposed amendment to Chapter 30.72 SCC that relates to the noticing of Type 2 closed record appeal hearings. The proposed language would

**Titcomb, Sarah**

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**From:** Eco, Debbie  
**Sent:** Wednesday, December 22, 2021 8:57 AM  
**To:** Countryman, Ryan; Titcomb, Sarah  
**Subject:** FW: Draft Code Project: Noticing for Type 2 Appeal Hearings

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Thinking about this, if you bring this up to Council and PA for future practice, keep in mind that on a record keeping point of view with the way the things are electronically these days, I personally do not like getting anything by USPS anymore (or anything hardcopy). This creates a hard copy record and may create one document in a fully electronic file that needs to be kept and archived pursuant to RCW. As you know, parties-of-record include other agencies, not just citizens, where this would cause this issue for them, as well.

(I currently have a couple of files that consist of hundreds of electronic pages and literally one hard copy page that I have to archive separately)

So, I guess what I am saying is, although sending by USPS also is a way to reach as many people as possible, I do believe times have changed and e-mail is the best way and the way you have the proposed code written with the request for USPS will cover all bases. My vote is for electronic noticing.

Thanks for listening to my two cents aka ramble.

*Debbie Eco, CMC*  
Clerk of the Council  
Snohomish County Council  
425-388-7038

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**From:** Eco, Debbie  
**Sent:** Tuesday, December 21, 2021 3:45 PM  
**To:** Countryman, Ryan <Ryan.Countryman@co.snohomish.wa.us>; Titcomb, Sarah <Sarah.Titcomb@co.snohomish.wa.us>  
**Cc:** Killingstad, David <david.killingstad@snoco.org>  
**Subject:** RE: Draft Code Project: Noticing for Type 2 Appeal Hearings

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This came after meetings with the PA and was determined so that we were certain to reach all possible interested parties.



## Titcomb, Sarah

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**From:** Titcomb, Sarah  
**Sent:** Wednesday, December 29, 2021 12:54 PM  
**Cc:** Killingstad, David  
**Subject:** Draft Proposed Code Amendments to SCC 30.71.080 and SCC 30.72.100 - PDS Seeking Public Comment  
**Attachments:** DRAFT Code Amendments\_Notice for Appeal Hearings.pdf

Good Afternoon,

PDS is preparing a code amendment proposal to streamline the noticing process for Type 1 and Type 2 permit appeal hearings. This code project is in its preliminary stages and I am reaching out today to provide you with some background on the project and draft code language. Please let me know if you have any questions, suggestions, or concerns about this proposal by January 14, 2022. If this project continues, there will be additional opportunities for formal public comment during public meetings with the Planning Commission and County Council. Please also feel free to reach out to me at any point during the process to provide additional comments for consideration.

The draft proposed code amendments are to [Snohomish County Code \(SCC\) 30.71.080](#) and [SCC 30.72.100](#). Within SCC 30.71.080, the noticing process for Type 1 open record appeals is the responsibility of either the Office of Hearings Administration or PDS depending on the type of permit being appealed. The method for noticing also differs based on the permit type. PDS is proposing amendments to this section of code as well as to SCC 30.72.100 to streamline the process and align code with current practice.

Below is the list of draft proposed changes and a brief rationale. I've also attached a memo to this email that provides more details.

- SCC 30.71.080(2) along with (3) and (4) creates three different public notice processes to be performed by either the Hearing Examiner or PDS based on the type of Type 1 permit under appeal. This is not efficient, in line with current practice, nor required by state code. (3) and (4) are proposed to be eliminated to streamline the noticing process. The remaining proposed language clarifies that the Office of Hearings Administration will notice all Type 1 open record appeals by emailing the notice to required parties.
- SCC 30.71.080(2) requires that the Hearing Examiner utilize first class mail or interoffice mail to notice the open record appeal hearings. The draft proposed amendments changes this language to allow for emailing unless a party of record specifies a need for physical mail. With the popularity of email correspondence and change in permit processing at PDS to only accept digital permit submissions, requiring that notice be physically mailed is not reasonable, cost effective, or the most efficient method of delivery in most situations.
- SCC 30.72.100(1) states that the council clerk will mail notice of Type 2 closed record appeal hearings to parties of record. The draft proposed amendments change this language to clarify that the council clerk can email notices unless a party of record specified the need for physical mail. The proposed change will align code with current practice, and is consistent with the proposed changes to Chapter 30.71 SCC.

Best Regards,  
Sarah

**Sarah Titcomb** | *Principal Planner*  
[Snohomish County Planning and Development Services](#)  
3000 Rockefeller Avenue M/S 604 | Everett, WA 98201

Permit Appeal Index #1-0018.pdf  
42516228 | [submitcomb@snoco.org](mailto:submitcomb@snoco.org)  
she/her

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**Snohomish County**  
**Planning and Development Services**

3000 Rockefeller Ave., M/S 604  
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(425) 388-3311  
[www.snoco.org](http://www.snoco.org)

DRAFT: Proposed Code Amendments related to Appeal Hearing Notice  
Requirements for Type 1 and Type 2 Permits

**Dave Somers**  
*County Executive*

DATE: December 29, 2021

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### **INTRODUCTION**

The purpose of this memo is to provide information on a draft non-project proposal to amend Chapters 30.71 and 30.72 of the Snohomish County Code (SCC) to elicit public feedback. The draft proposed code amendments to SCC 30.71.080 could work to streamline the noticing process for Type 1 permit open record appeal hearings. The draft proposed amendments to SCC 30.72.100 could align the code for the noticing of Type 2 permit closed record appeal hearings with practice.

### **PROPOSAL BACKGROUND**

Type 1 permits are administratively decided and processed per Chapter 30.71 SCC, whereas Type 2 permits are decided by the Hearing Examiner after a public hearing and processed per Chapter 30.72 SCC. Appeals of Type 1 and Type 2 decisions are both considered administrative, although Type 1 appeal hearings are open record and heard by the Hearing Examiner, and Type 2 appeal hearings are closed record and heard by the County Council. The draft proposed amendments discussed within this memo concern the public noticing processes for Type 1 and Type 2 appeal hearing once the Hearing Examiner or County Council has scheduled the date, time, and location of the hearing.

SCC 30.71.080 describes the process to notice Type 1 open record appeal hearings. The Hearing Examiner (Office of Hearings Administration) is required to process the open record appeal hearing notices for all Type 1 permits except for appeals related to short subdivision administrative decisions made pursuant to Chapter 30.41B SCC, and to State Environmental Policy Act (SEPA) determinations made pursuant to Chapter 30.61 SCC. Notice of the open record appeal hearing for these two exceptions must be processed by Snohomish County Planning and Development Services (PDS) pursuant to SCC 30.71.080(3) and (4).

The party responsible for noticing open record appeal hearings of administrative decisions has changed over time. In 1966, the Board of Adjustment was given the authority, then in 1972 it was the Zoning Adjuster, and the Hearing Examiner took over in 1979. In 1980, the then Department of Community Affairs (a precursor to PDS) became responsible for noticing, although by 1986 the responsibility was split much like it is today between PDS and the Office of Hearings Administration.

The current noticing requirements for the three categories of Type 1 open record appeal hearings described in SCC 30.71.080 are different, although this has not always been the case. From 1966 to 1986, one party was responsible for noticing the appeal hearings utilizing one methodology. In 1986 this changed and there became three separate processes that have not changed significantly to this day.

Currently, SCC 30.71.080 requires:

- The Hearing Examiner to provide 14 days notice for Type 1 open record appeal hearings by first class mail to the appellant, the appellant's representative, the department whose decision is being appealed (by interoffice mail), the applicant, the applicant's representative, and all parties of record.
- PDS to provide notice for short subdivision open record appeal hearings in the same manner that is required for Type 2 permit open record hearings per SCC 30.72.030, and to all parties of record by first class mail. SCC 30.72.030 requires 15 days notice of the hearing, and the notice must be published in the official county newspaper, mailed, and posted on the subject property per SCC 30.70.045. The mailed notices must be sent to all taxpayers of record within 500 to 1,500 feet of the subject property depending on the zoning and size of the property. The notice must also be mailed to cities or towns that have municipal boundaries within one mile of the subject property, to the Washington State Department of Transportation if the property is adjacent to a state right-of-way or within two miles of a state or municipal airport, and to any other local, state, or federal agency, or to any person or organization as determined appropriate.
- PDS to give 14 days notice for open record appeal hearings related to a SEPA determination by first class mail to all parties of record, agencies with jurisdiction as disclosed by documents in the appeal file, and to all taxpayers of record and known site addresses within 500 feet of any boundaries of the property subject to appeal.

Requiring two different parties to notice Type 1 open record appeal hearings utilizing three different processes causes confusion and delays. Additionally, the recent practice has been for the Office of Hearings Administration to provide public notice for all Type 1 open record appeal hearings. To simplify the noticing process and align code with current practice, the draft code amendments propose that the Office of Hearings Administration provide notice for all Type 1 open record appeal hearings utilizing one methodology that is in compliance with state requirements.

SCC 30.72.100 describes the noticing process for Type 2 closed record appeal hearings, and (1) states that the council clerk "will mail notice of the appeal" to all parties of record. The current practice is for the council clerk to email the notice information (date, time, and location of the scheduled hearing) to all parties of record. The draft proposed amendments to SCC 30.72.100(1) clarify that emailed notices of closed record hearings are allowed, and the proposed language is consistent with what is proposed within SCC 30.71.080(2) related to emailing or mailing notices.

Washington Administrative Code (WAC) 365-196-845 and the Revised Code of Washington (RCW) 36.70B.110(9) state that counties are not required to provide a process for administrative appeals. If the County does allow appeals, the WAC provides examples of reasonable notice measures, although it does not provide specific requirements. It is a similar story for SEPA appeals pursuant to Chapter 43.21C RCW. Therefore, Snohomish County has the discretion to determine the best method to notice both Type 1 and Type 2 appeal hearings. The draft code amendments propose that the Type 1 process include emailing the time, date, and place of the open record appeal hearing to the: appellant, the appellant's representative, the department whose decision is being appealed (if outside of PDS), the applicant, the applicant's representative, and all other parties of record. The process for noticing Type 2 appeal hearings is not proposed to change except to clarify that U.S. mail is not required. First class mail in particular will no longer be a requirement when individuals or organizations provide their email address. When parties

of record do not provide their email address, or request correspondence by physical mail, the Office of Hearings Administration or council clerk will mail notices by U.S mail.

**PROPOSED CODE AMENDMENTS**

The draft proposed code amendments provided on the following page could streamline the noticing process and align code with current practice by:

- Eliminating PDS from the noticing process for Type 1 open record appeal hearings,
- Specifying a single noticing process to be used by the office adjudicating the administrative hearing, with a presumption of emailing notice unless otherwise indicated, and
- Removing the requirement to mail notices by first class mail.

### 30.71.080 Notice of Type 1 open record appeal hearing

(2) Except where notice has already been given pursuant to the combined notice provisions of SCC 30.70.080(2), ~~((and except where notice has been provided by the department pursuant to subsections (3) and (4) below,))~~ the Office of Hearings Administration ~~((hearing examiner's office))~~ shall give notice of all open record appeal hearings by email ~~((first class mail))~~ (unless any of the below listed parties did not provide an email address or requested notice via U.S Mail ~~((otherwise required herein)))~~ to:

- (a) The appellant;
- (b) The appellant's agent/representative, if any;
- (c) The department whose decision is being appealed ~~((by interoffice mail))~~;
- (d) The applicant;
- (e) Applicant's agent/representative, if any; and
- (f) All parties of record.

~~((3) The department shall give notice of an open record appeal hearing for a decision made pursuant to chapter 30.41B SCC:~~

- ~~(a) In the same manner as required by SCC 30.72.030; and~~
- ~~(b) By first class mail to parties of record.)~~

~~((4) The department shall give notice of an open record appeal hearing for a SEPA determination made pursuant to chapter 30.61 SCC by first class mail to:~~

- ~~(a) Parties of record;~~
- ~~(b) Agencies with jurisdiction as disclosed by documents in the appeal file; and~~
- ~~(c) All taxpayers of record and known site addresses within 500 feet of any boundaries of the property subject to the appeal; provided that the mailing radius shall be increased if necessary to correspond with any larger radius required for the notice of any discretionary permit or action associated with the determination under appeal.)~~

### 30.72.100 Notice of Type 2 appeal

(1) Within seven calendar days following the close of the appeal period and upon receipt of a timely filed and complete appeal, the council clerk will email ~~((mail))~~ notice of the appeal and of the date, time, and place of the closed record appeal hearing to all parties of record (unless any party of record did not provide an email address or requested notice via U.S Mail).



# THANK YOU

We have received your amendment submission. Please allow 1-3 business days for review. Please keep the Submittal ID as your receipt and for any future questions. We will also send an email receipt to all contacts listed in the submittal.

## Submittal ID: 2022-S-3650

### Submittal Date Time: 02/03/2022

#### Submittal Information

<b>Jurisdiction</b>	Snohomish County
<b>Submittal Type</b>	60-day Notice of Intent to Adopt Amendment
<b>Amendment Type</b>	Development Regulation Amendment

#### Amendment Information

##### Brief Description

Proposed code amendments to SCC 30.71.080 will work to streamline the noticing process for Type 1 permit open record appeal hearings. The proposed amendments to SCC 30.72.100 will align the code for the noticing of Type 2 permit closed record appeal hearings with practice.

Yes, this is a part of the 8-year periodic update schedule, required under RCW 36.70A.130.

**Anticipated/Proposed Date of Adoption**

#### Attachments

Attachment Type	File Name	Upload Date
Development Regulation Amendment - Draft	Noticing Appeals_Planning Commission_Staff Report_1-27-22.docx	02/03/2022 10:39 AM

#### Contact Information

<b>Prefix</b>	Ms.
<b>First Name</b>	Sarah
<b>Last Name</b>	Titcomb
<b>Title</b>	Planner
<b>Work</b>	(425) 262-2128
<b>Cell</b>	
<b>Email</b>	Sarah.Titcomb@snoco.org

- ~~Permit Appeal: Index #1\_0019.pdf~~  
Yes, I would like to be contacted for Technical Assistance.

## Certification

---

- I certify that I am authorized to submit this Amendment for the Jurisdiction identified in this Submittal and all information provided is true and accurate to the best of my knowledge.

Full Name	Megan Moore
Email	megan.moore@snoco.org



**Titcomb, Sarah**

---

**From:** reviewteam@commerce.wa.gov  
**Sent:** Thursday, February 3, 2022 10:40 AM  
**To:** Titcomb, Sarah  
**Cc:** Moore, Megan  
**Subject:** Snohomish County (3100) Submittal Receipt -- 2022-S-3650  
**Attachments:** Submittal-Receipt-Email-2022-S-3650.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

We have received your amendment submission. Please allow 1-3 business days for review. Keep the Submittal ID as a reference number for any future questions.



STATE OF WASHINGTON  
DEPARTMENT OF COMMERCE  
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000  
[www.commerce.wa.gov](http://www.commerce.wa.gov)

02/03/2022

Ms. Sarah Titcomb  
Planner  
Snohomish County  
3000 Rockefeller Ave.  
Everett, WA 98201

Sent Via Electronic Mail

Re: Snohomish County--2022-S-3650--60-day Notice of Intent to Adopt Amendment

Dear Ms. Titcomb:

Thank you for sending the Washington State Department of Commerce (Commerce) the 60-day Notice of Intent to Adopt Amendment as required under [RCW 36.70A.106](#). We received your submittal with the following description.

**Proposed code amendments to SCC 30.71.080 will work to streamline the noticing process for Type 1 permit open record appeal hearings. The proposed amendments to SCC 30.72.100 will align the code for the noticing of Type 2 permit closed record appeal hearings with practice.**

We received your submittal on 02/03/2022 and processed it with the Submittal ID 2022-S-3650. Please keep this letter as documentation that you have met this procedural requirement. Your 60-day notice period ends on 04/04/2022.

We have forwarded a copy of this notice to other state agencies for comment.

Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at [reviewteam@commerce.wa.gov](mailto:reviewteam@commerce.wa.gov), or call Kirsten Larsen, (360) 280-0320.

Sincerely,

Review Team  
Growth Management Services

## Titcomb, Sarah

---

**From:** Titcomb, Sarah  
**Sent:** Monday, February 14, 2022 3:48 PM  
**To:** Michael A. Atwood  
**Subject:** Snohomish County Code Amendment Proposals  
**Attachments:** Rule 20-01\_Model Homes.pdf

Good Afternoon,

Thank you for speaking with me over the phone earlier today, and reaching out to learn more about the two proposed Snohomish County Code (SCC) amendment projects. The first project proposes amendments to the subdivision and short subdivision chapters of code, Chapters [30.41A](#) and [30.41B](#) SCC. Overall the proposed changes to these two chapters of code aim to increase consistency between the two chapters and other Title 30 chapters, the Snohomish County Comprehensive Plan, and a recent administrative rule. The proposal also includes a few housekeeping changes. The second proposed code amendment project focuses on the notification process for permit appeal hearings. This proposal aims to streamline the noticing process for Type 1 permit open record appeal hearings within [SCC 30.71.080](#), and align the Type 2 permit closed record appeal hearing notification requirements in [SCC 30.72.100](#) with the language changes proposed within SCC 30.71.080.

Below is a lot more detail about the two proposed code amendments, although I wanted to note near the top of this email that I will brief the Planning Commission about both of these code amendment proposals on Tuesday February 22<sup>nd</sup> at 5:30 pm. The zoom information for this Planning Commission meeting can be found here: <https://snohomishcountywa.gov/Calendar.aspx?EID=2109>.

Below is the list of proposed changes and a brief rationale for each related to Chapters 30.41A and 30.41B SCC:

- [SCC 30.41A.250](#) and SCC [30.41B.210](#) limit new development on sloping land although these sections pre-date the Growth Management Act (GMA) and the creation of [Chapter 30.62B SCC](#) that was established to protect Geologically Hazardous Areas. The current sloping land provisions were put in place in 1986 whereas the GMA was adopted in 1991, and Chapter 30.62B SCC was adopted in 2007. The proposed amendments would repeal SCC 30.41A.250 and SCC 30.41B.210.
  - In 1986 when SCC 30.41A.250 and SCC 30.41B.210 were originally created, the best method available to ensure the safety of the residents was to look at the slope of the land based on a topographic survey and limit development based on that slope. Since that time science has progressed. The GMA requires that the county protect critical areas like geologically hazardous areas, utilizing the best available science. This is accomplished through the implementation of Chapter 30.62B SCC that requires a geotechnical report for any development activity requiring a permit within an erosion hazard area, a landslide hazard area, two hundred feet of a mine hazard area, or two hundred feet of any faults (SCC 30.62B.140). This geotechnical report must contain the topography of the area, as well as significant geologic contacts, landslides, or downslope soil movement within 200 feet of the site, a channel migration zone study, and the geological condition of the site among many other items listed within [SCC 30.62B.140](#). It is also important to note that a landslide hazard area is more precisely defined than a steep slope within [SCC 30.91L.040](#), as the best available science has determined that steep slopes alone may not create such a hazard.
- The proposal would codify a 2020 administrative rule (attached to this email) clarifying that model homes can be approved within short subdivisions as well as subdivisions. This includes adding language to [SCC 30.41B.500](#) that emulates the allowances within [SCC 30.41A.500](#) through SCC 30.41A.550, and amending the definition of model homes in [SCC 30.91M.180](#).

- A housekeeping amendment within [SCC 30.41A.550](#) to remove the requirement for applicants to submit “two copies of a plot plan” when applying for a model home. All permit submittals are now digital, and the county only needs one copy of each submittal document.
- Removing the requirement to notice final plat submittals within [SCC 30.41A.640](#).
  - Amended Ordinance No. 17-045 authorized PDS to approve final subdivisions administratively, and when PDS reviews these submittals all major decisions related to the project, such as the number and configuration of lots, road placement, and landscaping have been previously approved by the Hearing Examiner after the conclusion of an open record hearing requiring public notice. PDS may administratively approve a final subdivision when it finds the final plat is consistent with the approved preliminary subdivision, meets all conditions of approval and applicable codes, and all necessary improvements are completed. Requiring a public noticing period for the final subdivision submittal when a public hearing is no longer required leads to a false expectation that the public can comment on and influence the final subdivision in the same way they can earlier in the process when an application is first submitted and considered by the Hearing Examiner at the preliminary subdivision stage.
- A housekeeping amendment to remove “council” within SCC 30.41A.665(1) and (3) that was inadvertently left in after adoption of Amended Ordinance No. 17-045 in 2017.

Within SCC 30.71.080, the noticing process for Type 1 open record appeals is the responsibility of either the Office of Hearings Administration or PDS depending on the type of permit being appealed. The method for noticing also differs based on the permit type. PDS is proposing amendments to this section of code as well as to SCC 30.72.100 to streamline the process and align code with current practice. Below is the list of proposed changes and a brief rationale for each related to Chapters 30.71 and 30.72 SCC.

- [SCC 30.71.080](#)(2) along with (3) and (4) creates three different public notice processes to be performed by either the Hearing Examiner or PDS based on the type of Type 1 permit under appeal. This is not efficient, in line with current practice, nor required by state code. (3) and (4) are proposed to be repealed to streamline the noticing process. The proposed new language clarifies that the Office of Hearings Administration will notice all Type 1 open record appeal hearings.
- SCC 30.71.080(2) requires that the Hearing Examiner utilize first class mail or interoffice mail to notice the open record appeal hearings. The proposed amendments changes this language to allow for emailing unless a party of record specifies a need for physical mail. With the popularity of email correspondence and change in permit processing at PDS to only accept digital permit submissions, requiring that notice be physically mailed is not reasonable, cost effective, or the most efficient method of delivery in most situations.
- SCC 30.72.100(1) states that the council clerk will mail notice of Type 2 closed record appeal hearings to parties of record. The proposed amendments change this language to clarify that the council clerk can email notices unless a party of record specified the need for physical mail. The proposed change is consistent with the proposed changes to Chapter 30.71 SCC.

Please let me know if you have any questions or would like any additional details.

Best Regards,  
Sarah

**Sarah Titcomb** | *Principal Planner*

[Snohomish County Planning and Development Services](#) | Long Range Planning Division  
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425-262-2128 | [sarah.titcomb@snoco.org](mailto:sarah.titcomb@snoco.org)  
she/her

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# PDS Director's Rule 20-01



**Snohomish County**

Planning and Development Services

<b>Department:</b> Snohomish County Planning and Development Services	<b>Pages:</b> 3	<b>Supersedes:</b> N/A
	<b>Adopted:</b>	<b>Effective:</b>
<b>Subject and Title:</b> Allowing Model Homes in Short Subdivisions	<b>Code and Section Reference:</b> SCC 30.41A.500 through 30.41A.550	
	<b>Type of Rule:</b> Code Clarification and Implementation	
	<b>Cite Basis:</b> Chapter 30.82 SCC	
<b>Approved:</b> _____ Barbara Mock, Director	<b>Date:</b> _____	

**BACKGROUND:**

SCC 30.41A.500 through 30.41A.550 allow the construction of model homes prior to final plat (subdivisions of 10 or more lots in urban growth areas or 5 or more lots in outside of urban growth areas) approval and recording. All site infrastructure and life safety improvements must be completed prior to issuance of a model home permit. Allowing model homes prior to final plat approval results in delivering housing to the market in a timely manner.

Under state law and county code, short subdivisions are considered subdivisions (the only significant difference being the number of lots and approval process). Title 30 SCC is silent on allowing model homes to be constructed in short subdivisions, leaving a gap in the regulatory purpose of expeditiously bringing housing to market. In addition, this gap results in an unequal application of the code to subdivisions and short subdivisions. Snohomish County GMA Comprehensive Plan Objective ED 2.A requires the county: "Develop and maintain a regulatory system that is fair, understandable, coordinated and timely." The gap in code related to model

homes prevents the department from fully effectuating this general statutory scheme.

**PURPOSE:**

The intent of this rule is to fill gaps in code related to model home provisions in SCC 30.41A.500 through 30.41A.550. Applying such provisions to short subdivisions (9 lots or less in urban growth areas or 4 lots or less outside of urban growth areas) is necessary to effectuate a general statutory scheme designed to meet market demand for housing and applied equally to subdivisions and short subdivisions.

**RULE:**

SCC 30.41A.500 through 30.41A.550 shall apply to short subdivision applications submitted under chapters 30.41B SCC, 30.42B SCC, and 30.41C SCC. All references to “subdivision” shall also mean “short subdivision.”

**FINDINGS:**

The following findings support the purpose of this rule:

1. There is a regionwide housing shortage; and
2. There are gaps in the regulation of model homes; and
3. This rule is necessary to effectuate a general statutory scheme and to ensure equal treatment of subdivisions and short subdivisions with regards to model homes; and
4. The model home provisions in SCC 30.41A.500 through 30.41A.550 require site infrastructure and life safety requirements be fulfilled prior to issuance of a building permit for model homes; and
5. The model home provisions in SCC 30.41A.500 through 30.41A.550 do not allow occupancy of the structure prior to final subdivision approval; and
6. The model home provisions of SCC 30.41A.500 through 30.41A.550 protects the health, safety, and welfare of the public.
7. Pursuant to Chapter 30.82 SCC, the public participation process and notification requirements for this rule have been satisfied.

**RULEMAKING PROCESS:**

The following provides the procedural process for adoption of this rule:

<b>Rulemaking Process</b>		
<b>Notice of Proposed Rule</b>		
Filed with Council Clerk	<b>December 8, 2020</b>	
Posted at Counter	<b>December 8, 2020</b>	
Published	<b>December 8, 2020</b>	

Comment Period (21 days)	<b>December 29, 2020</b>	
<b>Notice of Rule Adoption</b>		
Filed with Council Clerk		
Published		
Copies to Commenters		



---

**Snohomish County**  
**Planning and Development Services**

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**Dave Somers**  
*County Executive*

## **SNOHOMISH COUNTY ENVIRONMENTAL CHECKLIST**

### **Purpose of Checklist**

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information on the impacts from this proposal (and to reduce or avoid impacts if possible) to help the agency decide whether an EIS is required.

### **A. Background**

**1. Name of proposed project:**

Revising Notice Requirements for Type 1 and Type 2 Permits Appeal Hearing

**2. Name of applicant:**

Snohomish County, Department of Planning and Development Services.

**3. Address and phone number of applicant and contact person:**

Sarah Titcomb, Project Manager  
3000 Rockefeller, M/S 604  
Everett, WA 98201  
Phone: 425-262-2128  
Email: Sarah.Titcomb@snoco.org

**4. Date checklist prepared:**

January 21, 2022



**5. Agency requesting checklist:**

Snohomish County, Department of Planning and Development Services

**6. Proposed timing or schedule (including phasing, if applicable):**

Planning Commission briefing: February 22, 2022

Planning Commission public hearing: March 22, 2022

County Council public hearing: To be determined

**7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.**

This proposal is for a non-project action with no directly related plans for future activities associated with these code amendments.

**8. List any environmental information you know about what has been prepared, or will be prepared, directly related to this proposal.**

The proposed ordinance is consistent with the policies and goals of the adopted Growth Management Act Comprehensive Plan, which included an EIS that was adopted on June 3, 2015. No additional environmental information or studies have been prepared for the proposed development regulations.

**9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.**

This is a non-project action which affects the regulations surrounding noticing appeal hearings for Type 1 and Type 2 permits. The non-project action is not associated with a specific property.

**10. List any government approvals or permits that will be needed for your proposal, if known.**

No government approvals or permits are required for this proposal. The Snohomish County Planning Commission will make a recommendation to the County Council, who may adopt the amendment as proposed, revise the proposed amendment, or take no action.

**11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.**

Relating to Appeal Hearing Notice Requirements for Type 1 And Type 2 Permits in Title 30 of the Snohomish County Code (SCC), AMENDING SCC 30.70.080 and SCC 30.72.100

- The proposed ordinance would amend SCC 30.71.080(2) to clarify that the Office of Hearings Administration will notice all Type 1 open record appeals by emailing the notice to required parties, unless a party of record specified a need for physical mail.
- The proposed ordinance would eliminate SCC 30.71.080(3) and (4) to streamline the noticing process for Type 1 permit appeal hearings.
- The proposed ordinance would add language to SCC 30.72.100(1) to clarify that the council clerk can email notices of Type 2 permit appeal hearings unless a party of record specified the need for physical mail.

**12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.**

This non-project proposal that would be in effect throughout the jurisdiction of Snohomish County.

**B. Environmental Elements**

**1. Earth**

**a. General description of the site:**

(Circle one): **Flat, rolling, hilly, steep slopes, mountainous, other \_\_\_\_\_**

Lands within the jurisdiction of Snohomish County include a variation of terrain such as flat, rolling, hilly, and steep slopes.

**b. What is the steepest slope on the site (approximate percent slope)?**

Slopes in excess of 100% can be found within the jurisdiction of Snohomish County.

**c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.**

A range of soil types are found within the jurisdiction of Snohomish County.

**d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.**

Certain areas within Snohomish County have a history of surface instability associated with periods of heavy rainfall. Other areas have a history of more deep-seated instability associated with landslide activity.

**e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.**

As a non-project action, no filling or grading is proposed. Any future site-specific development or land use proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review of any proposed grading or filling activity.

**f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.**

As a non-project action, no erosion will occur as a direct result of this proposal. Any future site-specific development or land use proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review of any proposed clearing and construction that might result in erosion.

**g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?**

As a non-project action, no impervious surface coverage will occur as a result of this proposal.

**h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:**

As a non-project action, no erosion reduction or control measures are proposed or required. Future site-specific development or land use action not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project level SEPA and regulatory review and would require the implementation of applicable County regulations to reduce or control erosion or other impacts to the earth.

## 2. Air

- a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.**

As a non-project action, no emissions to air will occur as a result of this proposal.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.**

Not applicable.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:**

As a non-project action, no measures to reduce or control emissions are required or proposed. Future site-specific development or land use action not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project level SEPA and regulatory review and would require the implementation of applicable County regulations to reduce or control emissions or other impacts to air, if any.

## 3. Water

- a. Surface Water:**

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**

There are several streams, seasonal streams, and bodies of water located within Snohomish County.

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.**

As a non-project action, this proposal will not require any work in, or adjacent to, the described waters. Future site-specific development or land use action not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project level SEPA and regulatory review and would require the implementation of applicable County regulations to reduce or control activities near surface water bodies, if any.

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.**

As a non-project action, no fill or dredge material will be placed or removed from surface water or wetlands.

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.**

As a non-project action, no surface water withdrawals or diversion will be required.

- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.**

Not applicable as this is a non-project action.

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.**

As a non-project action, no discharges of waste materials to surface waters will occur as a result of this proposal.

**b. Ground Water:**

- 1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.**

As a non-project action, no groundwater will be withdrawn or discharged.

- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**

As a non-project action, no waste material will be discharged from septic tanks or other sources as a result of this proposal. Future development or land use actions not exempted by WAC 197-11-800 or SCC 30.61.035 that would likely result in discharges from stormwater runoff would be subject to project-level SEPA and regulatory review.

**c. Water runoff (including stormwater):**

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**

As a non-project action, no runoff will occur as a result of this proposal. Any future site-specific development or land use action proposal would be subject to a separate SEPA and development permit review, which would address runoff management.

- 2) Could waste materials enter ground or surface waters? If so, generally describe.**

As a non-project action, no runoff will occur as a result of this proposal. Any future site-specific development or land use action proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and development permit review, which would address runoff management.

**d. Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.**

As a non-project action, no drainage patterns will be affected as a result of this proposal. Any future site-specific development or land use proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and permit review, which would address drainage.

**e. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:**

As a non-project action, no measures are proposed or required to reduce impacts to surface or groundwaters. Any future site-specific development or land use proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and permit review.

**4. Plants**

**a. Check the types of vegetation found on the site:**

deciduous tree: alder, maple, aspen, other

evergreen tree: fir, cedar, pine, other

shrubs

grass

pasture

crop or grain

- Orchards, vineyards or other permanent crops.
- wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation

All types of the above vegetation occur in various locations throughout the county.

**b. What kind and amount of vegetation will be removed or altered?**

As a non-project action, no vegetation will be removed as a direct result of this proposal. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA evaluation of any proposed vegetation removal or alteration.

**c. List threatened and endangered species known to be on or near the site.**

U.S Fish and Wildlife Services provides listing for Endangered Species Act (ESA) species under its jurisdiction. National Marine Fisheries Service provides listing for ESA species under its jurisdiction. Washington State Department of Fish and Wildlife provides listing for sensitive species under its jurisdiction. Washington State Department of Natural Resources provides legal listing of sensitive species under its jurisdiction.

**d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:**

As a non-project action, no measures to preserve or enhance vegetation are required for this proposal. Any future site-specific development or land use action proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and permit review, which would include review of any proposed landscaping or measures to preserve or enhance vegetation on the site.

**e. List all noxious weeds and invasive species known to be on or near the site.**

All types of noxious weeds and invasive species occur throughout the county.

**5. Animals**

**a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.**

Birds: **hawk, heron, eagle, songbirds, other:** \_\_\_\_\_

Mammals: **deer, bear, elk, beaver, other:** \_\_\_\_\_

Fish: **bass, salmon, trout, herring, shellfish, other:** \_\_\_\_\_

All of the above animal species may be found in various locations throughout the county.

**b. List any threatened and endangered species known to be on or near the site.**

U.S Fish and Wildlife Services provides listing for ESA species under its jurisdiction. National Marine Fisheries Service provides listing for ESA species under its jurisdiction. Washington State Department of Fish and Wildlife provides legal listing for sensitive species under its jurisdiction. Washington State Department of Natural Resources provides legal listing of sensitive species under its jurisdiction.

**c. Is the site part of a migration route? If so, explain.**

Yes. Wildlife species do migrate through the county, but as a non-project action, this proposal will not impact migratory species.

**d. Proposed measures to preserve or enhance wildlife, if any:**

As a non-project action, no measures to preserve or enhance wildlife are required or proposed. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to preserve or enhance wildlife, if any.

**e. List any invasive animal species known to be on or near the site.**

All types of invasive animal species that occur throughout the county.

**6. Energy and Natural Resources**

**a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**

As a non-project action, energy will not be consumed.

**b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**

As a non-project action, there will be no impact on solar energy as a result of this proposal.



- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:**

As a non-project action, energy conservation features are not applicable to this project. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control energy impacts, if any.

## **7. Environmental Health**

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.**

As a non-project action, no environmental health hazards will result as a consequence of this proposal.

- 1) Describe any known or possible contamination at the site from present or past uses.**

As a non-project action, this is not applicable. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include identification of known or possible contamination, if any.

- 2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.**

As a non-project action, this is not applicable. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include identification existing hazardous chemicals/conditions, if any.

- 3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**

As a non-project action, this is not applicable. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include a review of toxic or hazardous chemicals stored, used, or produced during the project's development or construction, or at any time during the operating life of the project, if any.

**4) Describe special emergency services that might be required.**

As a non-project action, no special emergency services are required by this proposal.

**5) Proposed measures to reduce or control environmental health hazards, if any:**

As a non-project action, no measures to reduce or control environmental health hazards are required for this proposal. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control environmental health hazards, if any.

**b. Noise**

**1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?**

This non-project action will not be affected by noise.

**2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.**

This non-project action will not generate noise.

**3) Proposed measures to reduce or control noise impacts, if any:**

As a non-project action, no measures to reduce or control noise impacts are required or proposed. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control noise impacts, if any.

**8. Land and Shoreline Use**

**a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.**

This is a non-project proposal and a variety of uses exist within the jurisdiction of Snohomish County.

**b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term**

**commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?**

As a non-project action, no working farmlands or working forests will be converted. There are working farmlands and forest lands within the jurisdiction of Snohomish County.

**1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:**

As a non-project action, this proposal will not directly affect or be affected by surrounding working farm or forest lands. This proposed non-project action does not change existing regulations or protections relating to working farm or forest lands.

**c. Describe any structures on the site.**

Not applicable to this non-project action.

**d. Will any structures be demolished? If so, what?**

As a non-project action, no structures will be demolished as a result of this proposal.

**e. What is the current zoning classification of the site?**

This is a non-project action that pertains to all zoning classifications within the jurisdiction of Snohomish County.

**f. What is the current comprehensive plan designation of the site?**

This is a non-project action that pertains to all future land use designations within the jurisdiction of Snohomish County.

**g. If applicable, what is the current shoreline master program designation of the site?**

Not applicable to this non-project action.

**h. Has any part of the site been classified as a critical area by the city or county? If so, specify.**

Not applicable to this non-project action.

**i. Approximately how many people would reside or work in the completed project?**

As a non-project action, this is not applicable.

**j. Approximately how many people would the completed project displace?**

As a non-project action, this is not applicable.

**k. Proposed measures to avoid or reduce displacement impacts, if any:**

As a non-project action, no measures to avoid or reduce displacement impacts are required by this proposal.

**l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:**

The proposed code amendments are compatible with the land use plans and regulations.

**m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:**

As a non-project action, no impacts to agricultural and forest lands of long-term commercial significance would occur as a result of this proposal. This proposed non-project action does not change existing regulations or protections relating to agricultural and forest lands of long-term commercial significance.

**9. Housing**

**a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**

As a non-project action, no housing units would be provided by this proposal.

**b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.**

As a non-project action, no housing units would be eliminated by this proposal.

**c. Proposed measures to reduce or control housing impacts, if any:**

As a non-project action, no measures to reduce or control impacts to housing are required or proposed.

## 10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**

As a non-project action, no structures are proposed. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which will include review of structure height and building materials.

- b. What views in the immediate vicinity would be altered or obstructed?**

As a non-project action, no views will be altered or obstructed as a result of this proposal. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which will include review of views that may be altered or obstructed.

- c. Proposed measures to reduce or control aesthetic impacts, if any:**

As a non-project action, no measures to reduce or control aesthetic impacts are required or proposed. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control aesthetic impacts, if any.

## 11. Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?**

As a non-project action, no light or glare will occur as a result of this proposal.

- b. Could light or glare from the finished project be a safety hazard or interfere with views?**

As a non-project action, no light or glare that could be a safety hazard or interfere with views will result from this proposal. Any future site-specific development proposals not exempted by WAC 197-11-800 or SCC 30.61.035 will be subject to a separate SEPA and applicable permit reviews, which will include review of light and glare from the development.

- c. What existing off-site sources of light or glare may affect your proposal?**

Not applicable to this non-project action.

**d. Proposed measures to reduce or control light and glare impacts, if any:**

As a non-project action, no measures to reduce or control light and glare impacts are required or proposed. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control light and glare impact, if any.

**12. Recreation**

**a. What designated and informal recreational opportunities are in the immediate vicinity?**

Hunting, fishing, bird watching and many other recreational opportunities exist.

**b. Would the proposed project displace any existing recreational uses? If so, describe.**

As a non-project action, no existing recreational uses will be displaced.

**c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:**

As a non-project action, no measures to reduce or control impacts on recreation are proposed or required. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any.

**13. Historic and cultural preservation**

**a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.**

Not applicable to this non-project action.

**b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.**

Not applicable to this non-project action. Future development proposals may be conditioned or subject to further review on a site-specific basis under Chapter 30.32D SCC – Historic and Archaeological Resources.

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.**

Not applicable to this non-project action. Future development proposals may be conditioned or subject to further review on a site-specific basis under Chapter 30.32D SCC – Historic and Archaeological Resources.

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.**

As a non-project action, no measures to reduce or control impacts on recreation are proposed or required. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any.

#### **14. Transportation**

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.**

Various highways and several state routes and local streets service Snohomish County.

- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?**

Various transit services exist in Snohomish County.

- c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?**

As a non-project action, no parking spaces are proposed or required. Future site-specific development must meet the minimum parking requirements as mandated by Chapter 30.26 of the Snohomish County Code.

- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).**

As a non-project proposal, new transportation improvements are not required or proposed. Future site-specific development will be reviewed for impacts to the roadway system and improvements to existing roadways may be required on a project-by-project basis.

- e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**

Not applicable to this non-project action.

- f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?**

This non-project action will not directly generate any vehicular trips per day. Any future site-specific development or land use proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and permit review, which would include review of traffic issues.

- g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.**

As a non-project action, the proposal will not interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets. Any future development or land use proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and permit review, which will include review of impacts interfering, affecting, or resulting from the movement of agricultural and forest products on roads or streets.

- h. Proposed measures to reduce or control transportation impacts, if any:**

As a non-project action, no measures to reduce or control transportation are proposed or required. Any future site-specific development or land use action not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and concurrency review, which would include implementation of measures to reduce or control any transportation impacts.



## 15. Public Services

- a. **Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.**

As a non-project action, this proposal will not result in an increased need for public services. Site-specific project actions may affect services such as fire and police. These impacts will be reviewed during the project level permitting of the development.

- b. **Proposed measures to reduce or control direct impacts on public services, if any.**

As a non-project action, no measures to reduce or control impacts on public services are proposed or required. Any future site-specific development or land use action proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control any impacts on public services.

## 16. Utilities

- a. **Circle utilities currently available at the site:**

Electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other \_\_\_\_\_

Not applicable to this non-project action.


- b. **Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.**

As a non-project action, no utilities are proposed or required. Any future site-specific development or land use action proposal would need to provide electricity to serve the proposed development.

## C. Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: \_\_\_\_\_

  
Sarah Titcomb, Project Manager  
Principal Planner, Planning and Development Services

Date Submitted: January 21, 2022

## **D. Supplemental sheet for non-project actions**

### **1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?**

The proposal will not likely cause any increase in these types of discharges or emissions. As a non-project action, no direct impacts will occur to water or air quality. The proposed code changes will not likely be a direct effect to the production, storage, or release of toxic or hazardous substances; or production of noise.

#### **Proposed measures to avoid or reduce such increases are:**

As a non-project action, this proposal is not likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise. Future site-specific land activity not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project level environmental analysis and threshold determination.

### **2. How would the proposal be likely to affect plants, animals, fish, or marine life?**

As a non-project action, the proposal is not likely to impact animals, fish, or marine life. Future development will be subject to the county's critical area regulations under Title 30, which include provisions to protect streams, wetlands, and wildlife.

#### **Proposed measures to protect or conserve plants, animals, fish, or marine life are:**

The County's critical areas regulations regulate development in environmentally sensitive areas. Future site-specific land activity not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project level environmental analysis and threshold determinations.

### **3. How would the proposal be likely to deplete energy or natural resources?**

The proposal would not likely deplete energy or natural resources.

#### **Proposed measures to protect or conserve energy and natural resources are:**

As a non-project action, no measures to conserve energy or natural resources are necessary for this proposal. Future site-specific land activity not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project-level environmental analysis and threshold determinations.

- 4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

The proposed code amendments would not likely affect environmentally sensitive areas as vegetation removal is prohibited in critical areas and critical area buffers. As a non-project action, this proposal is unlikely to directly affect environmentally sensitive areas or areas designated (or eligible or under study) for government protection.

**Proposed measures to protect such resources or to avoid or reduce impacts are:**

The County's critical areas regulations regulate development in environmentally sensitive areas. Future site-specific land activity not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project level environmental analysis and threshold determinations.

- 5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**

The proposal is not likely to affect land and shoreline use. The County's Shoreline Management Plan regulates development in the shoreline designations. This proposal does not encourage incompatible land or shoreline uses.

**Proposed measures to avoid or reduce shoreline and land use impacts are:**

The County's shoreline and land use regulations regulate development within shoreline areas. Future site-specific development proposals in the shoreline environment are subject to County development regulations implementing the Shoreline Management Program, Chapters 30.44 and 30.67 SCC.

- 6. How would the proposal be likely to increase demands on transportation or public services and utilities?**

As a non-project action, this proposal is unlikely to directly increase demands on transportation or public services and utilities.

**Proposed measures to reduce or respond to such demand(s) are:**

As a non-project action, this proposal is unlikely to directly increase demands on transportation or public services and utilities, so measures to reduce impacts are not applicable. Future site-specific development or land use activity not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project-level environmental analysis and threshold determinations.

**7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

The proposal does not conflict with any law or requirements to protect the environment.



**Snohomish County**  
**Planning and Development Services**

3000 Rockefeller Ave., M/S 604  
Everett, WA 98201-4046  
(425) 388-3311  
[www.snoco.org](http://www.snoco.org)

**Dave Somers**  
*County Executive*

## **DETERMINATION OF NONSIGNIFICANCE**

**Proponent:** Snohomish County Department of Planning and Development Services  
County Administration Building  
3000 Rockefeller Avenue, M/S 604  
Everett, WA 98201

**Description of Proposal:** Proposed ordinance to amend the Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits within Snohomish County Code (SCC) 30.70.080 and SCC 30.72.100. Ordinance is titled:

RELATING TO NOTICE REQUIREMENTS FOR TYPE 1 AND TYPE 2 PERMITS  
APPEAL HEARING IN TITLE 30 OF THE SNOHOMISH COUNTY CODE (SCC),  
AMENDING SCC 30.70.080 and SCC 30.72.100

### Proposed Amendments

This is a non-project proposal to amend Snohomish County Code (SCC) Title 30 to streamline the noticing process for Type 1 permit open record appeal hearings and align the code for the noticing of Type 2 permit closed record appeal hearings with practice. More specifically,

- SCC 30.71.080(2) will be amended to clarify that the Office of Hearings Administration will notice all Type 1 open record appeals by emailing the notice to required parties, unless a party of record specified a need for physical mail.
- SCC 30.71.080(3) and (4) will be eliminated to streamline the noticing process for Type 1 permit appeal hearings.
- SCC 30.72.100(1) will be amended to clarify that the council clerk can email notices of Type 2 permit appeal hearings unless a party of record specified the need for physical mail.

**Lead Agency:** Snohomish County Department of Planning and Development Services

**Threshold Determination:** The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) **IS NOT** required under RCW 43.21C.030(2)(c). This decision was made after review by Snohomish County of a completed environmental checklist and other information on file with this agency. This information is available for public review upon request.

This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted by February 17, 2022 to the responsible official at the address listed below.

**Appeals:** This DNS together with the subsequent legislative action by the County Council to amend the County Code may be appealed to the Central Puget Sound Growth Management Hearings Board. **THIS DNS MAY BE APPEALED ONLY WHEN SUCH APPEAL IS COMBINED WITH THE APPEAL OF THE UNDERLYING ACTION PURSUANT TO SCC 30.73.100. THE APPEAL MUST BE FILED WITHIN 60 DAYS OF THE PUBLISHED NOTICE OF ACTION ISSUED SUBSEQUENT TO THE FINAL DECISION BY THE COUNTY.** The Notice of Action describing the final decision by the County to pursue or not pursue the proposed action will be published in the County's paper of record. Any appeal must be filed with the Central Puget Sound Growth Management Hearings Board, at PO Box 40953 Olympia WA 98504-0953 within 60 days following publication in the paper, or as otherwise stated in the Notice of Action or provided by law.

**Responsible Official:** David Killingstad  
**Position/Title:** Manager, Long Range Planning  
**Address:** 3000 Rockefeller Avenue, M/S #604  
Everett, WA 98201-4046

*David Killingstad*

---

David Killingstad, Manager

For further information, contact Sarah Titcomb, Planning and Development Services, (425) 262-2128 or [sarah.titcomb@snoco.org](mailto:sarah.titcomb@snoco.org). Please include your full name and mailing address in any email comments.

**Date Issued:** February 3, 2022

**Date Published:** February 3, 2022

# Everett Daily Herald

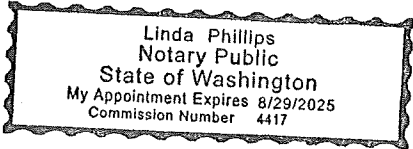
## Affidavit of Publication

State of Washington }  
County of Snohomish } ss

Michael Gates being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH947936 AMEND HRG NOTICE as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 02/03/2022 and ending on 02/03/2022 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is \$109.02. [Signature]

Subscribed and sworn before me on this 3<sup>rd</sup> day of February, 2022.



[Signature: Linda Phillips]

Notary Public in and for the State of Washington.  
Snohomish County Planning | 14107010  
MEGAN MOORE

Snohomish County  
Planning and Development Services  
3000 Rockefeller Ave., M/S 604  
Everett, WA 98201-4046  
(425) 388-3311  
www.snoco.org  
Dave Somers  
County Executive

**DETERMINATION OF NONSIGNIFICANCE**

**Proponent:** Snohomish County Department of  
Planning and Development Services  
County Administration Building  
3000 Rockefeller Avenue, M/S 604  
Everett, WA 98201

**Description of Proposal:** Proposed ordinance to amend the Appeal  
Hearing Notice Requirements for Type 1 and Type 2 Permits within  
Snohomish County Code (SCC) 30.70.080 and SCC 30.72.100.  
Ordinance is titled:

RELATING TO NOTICE REQUIREMENTS FOR TYPE 1 AND  
TYPE 2 PERMITS APPEAL HEARING IN TITLE 30 OF THE  
SNOHOMISH COUNTY CODE (SCC), AMENDING SCC  
30.70.080 and SCC 30.72.100

**Proposed Amendments**

This is a non-project proposal to amend Snohomish County Code  
(SCC) Title 30 to streamline the noticing process for Type 1 permit  
open record appeal hearings and align the code for the noticing of  
Type 2 permit closed record appeal hearings with practice. More  
specifically,

- SCC 30.71.080(2) will be amended to clarify that the Office of  
Hearings Administration will notice all Type 1 open record  
appeals by emailing the notice to required parties, unless a  
party of record specified a need for physical mail.
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- SCC 30.72.100(1) will be amended to clarify that the council  
clerk can email notices of Type 2 permit appeal hearings  
unless a party of record specified the need for physical mail.

**Lead Agency:** Snohomish County Department of Planning and  
Development Services

**Threshold Determination:** The lead agency for this proposal has  
determined that it does not have a probable significant adverse  
impact on the environment. An environmental impact statement  
(EIS) IS NOT required under RCW 43.21C.030(2)(c). This decision  
was made after review by Snohomish County of a completed  
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agency. This information is available for public review upon  
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Comments must be submitted by February 17, 2022 to the  
responsible official at the address listed below.

**Appeals:** This DNS together with the subsequent legislative action  
by the County Council to amend the County Code may be  
appealed to the Central Puget Sound Growth Management  
Hearings Board.

THIS DNS MAY BE APPEALED ONLY WHEN SUCH  
APPEAL IS COMBINED WITH THE APPEAL OF THE  
UNDERLYING ACTION PURSUANT TO SCC 30.73.100.  
THE APPEAL MUST BE FILED WITHIN 60 DAYS OF THE  
PUBLISHED NOTICE OF ACTION ISSUED SUBSEQUENT  
TO THE FINAL DECISION BY THE COUNTY.

The Notice of Action describing the final decision by the County to  
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40953 Olympia WA 98504-0953 within 60 days following  
publication in the paper, or as otherwise stated in the Notice of  
Action or provided by law.

**Responsible Official:** David Killingstad  
**Position/Title:** Manager, Long Range Planning  
**Address:** 3000 Rockefeller Avenue, M/S #604



**Classified Proof**

Everett, WA 98201-4046  
DAVID KILLINGSTAD, Manager  
For further information, contact Sarah Titcomb, Planning and  
Development Services, (425) 262-2128 or  
sarah.titcomb@snoco.org. Please include your full name and  
mailing address in any email comments.  
Date Issued: February 3, 2022  
Published: February 3, 2022. EDH947936

A12 Thursday, 02.03.2022 The Daily Herald

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# Legal Notices

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**Please Call For Pricing And Deadlines**

### Public Notices

**CITY OF EDMONDS**  
NOTICE OF APPLICATION and  
REQUEST FOR PUBLIC COMMENT

**PROJECT DESCRIPTION:** BK Investment Group is proposing to subdivide a 17,160 square foot site into 14 lots in the Downtown Business (BD3) zone. The subdivision is related to the Pine Park 614 project which received design approval from the Architectural Design Board in 2021 through file PLN2020-0053. Each of the proposed lots would contain one of the 14 units envisioned in the design review. The proposed lots would be accessed from the alley to the south of the site which is also owned by BK Investments. Utility and frontage improvements will be required.

This proposal is for a preliminary formal subdivision, not a preliminary unit lot subdivision. Unit lot subdivisions are not permitted in the Downtown Business zones. Formal subdivision is, provided it meets the standards in the subdivision ordinance in ECDC 20.75.

**PROJECT LOCATION:** 614 & 616 5th Ave. S  
(Tax ID #: 27032600100900 & 27032600102900)  
**NAME OF OWNER:** BK Investment Group LLC (Jonathan Kurth)  
**NAME OF APPLICANT:** Kelsey Elliott  
**FILE NO.:** PLN2021-0072  
**DATE OF APPLICATION:** December 10, 2021  
**DATE OF COMPLETENESS:** January 20, 2022  
**DATE OF NOTICE:** February 3, 2022  
**REQUESTED PERMITS:** Preliminary formal subdivision (Type III-A decision by the Hearing Examiner following a public hearing)  
**OTHER REQUIRED PERMITS:** Building and Engineering permits  
**REQUIRED STUDIES:** None at this time  
**EXISTING ENVIRONMENTAL DOCUMENTS:** Stormwater report, critical area checklist, SEPA checklist and DNS  
**COMMENTS ON PROPOSAL DUE:** February 17, 2022 (A separate notice of public hearing and request for public comments will be issued once a hearing date has been determined.)

Information on this development application can be obtained online at  
[https://www.edmondswa.gov/services/public\\_involvement/public\\_notices/development\\_notices](https://www.edmondswa.gov/services/public_involvement/public_notices/development_notices)

under the development notice for application number PLN2021-0072, by emailing the City contact listed below, or by calling the City of Edmonds at 425-771-0220. Please refer to the application number for all inquiries.

Any person has the right to comment on this application during public comment period, receive notice and participate in any hearings, and request a copy of the decision on the application. The City may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit. Only parties of record as defined in ECDC 20.06.020 have standing to initiate an administrative appeal. All comments submitted are public records subject to disclosure per RCW 42.56.

**CITY CONTACT:** Mike Clugston, AICP, Senior Planner  
michael.clugston@edmondswa.gov  
425-771-0220  
Published: February 3, 2022. EDH947928

### Public Notices

**Snohomish County**  
Planning and Development Services  
3000 Rockefeller Ave., M/S 604  
Everett, WA 98201-4046  
(425) 388-3311  
www.snoco.org  
Dave Somers  
County Executive

**DETERMINATION OF NONSIGNIFICANCE**

**Proponent:** Snohomish County Department of Planning and Development Services  
County Administration Building  
3000 Rockefeller Avenue, M/S 604  
Everett, WA 98201

**Description of Proposal:** Proposed ordinance to amend the Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits within Snohomish County Code (SCC) 30.70.080 and SCC 30.72.100. Ordinance is titled:  
**RELATING TO NOTICE REQUIREMENTS FOR TYPE 1 AND TYPE 2 PERMITS APPEAL HEARING IN TITLE 30 OF THE SNOHOMISH COUNTY CODE (SCC), AMENDING SCC 30.70.080 and SCC 30.72.100**

**Proposed Amendments**  
This is a non-project proposal to amend Snohomish County Code (SCC) Title 30 to streamline the noticing process for Type 1 permit open record appeal hearings and align the code for the noticing of Type 2 permit closed record appeal hearings with practice. More specifically,

- SCC 30.71.080(2) will be amended to clarify that the Office of Hearings Administration will notice all Type 1 open record appeals by emailing the notice to required parties, unless a party of record specified a need for physical mail.
- SCC 30.71.080(3) and (4) will be eliminated to streamline the noticing process for Type 1 permit appeal hearings.
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**Lead Agency:** Snohomish County Department of Planning and Development Services

**Threshold Determination:** The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) IS NOT required under RCW 43.21C.030(2)(c). This decision was made after review by Snohomish County of a completed environmental checklist and other information on file with this agency. This information is available for public review upon request.

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The Notice of Action describing the final decision by the County to pursue or not pursue the proposed action will be published in the County's paper of record. Any appeal must be filed with the Central

### Bids, RFQ's, RFP's

**INVITATION TO BID**  
**ISLAND COUNTY PUBLIC WORKS DEPARTMENT**

Sealed bids will be received by the Island County Auditor in the Courthouse Administration Building, attention: Dierdre Butler at 1 N.E. Seventh Street, (P.O. Box 5000), Coupeville, Washington 98239, until 12:00 PM, February 16th, 2022 for the following:  
**MULTI YEAR TRAFFIC CONTROL SIGN CONTRACT**  
RM-PW-2021-121

**CONTRACT DESCRIPTION:**  
A multi-year purchasing contract to purchase a variety of traffic control signs (Stop, Speed Limit, Curve Warning, etc.) on a regular basis  
**Bids received after the date and time stated above will not receive consideration.**  
Proposals will then be publicly opened and read aloud in Room 116 or on the front steps of the County Administration Building located at 1 NE 7th Street, Coupeville, Washington, at 1:00 PM, February 16th, 2022.  
Bids shall be submitted on the forms attached with the bid documents. All bids shall be in a sealed opaque envelope and plainly marked on the outside "RM-PW-2021-121 SEALED BID; MULTI YEAR TRAFFIC CONTROL SIGN CONTRACT ATTN: DIERDRE BUTLER". No oral, telephone, telegraphic, or faxed bids or modifications will be considered.  
**BIDDING DOCUMENTS:** Electronic copies of the bidding documents, plan holder list, and any addenda for this solicitation can be accessed through the website address listed below. The bidding documents are downloadable for a nonrefundable price of \$15.00. Bidders must register for free with QuestCDN to download the bidding documents, contact QuestCDN at 952-233-1632 or info@questcdn.com for assistance. Lower resolution hard copies of the bidding documents may be purchased from Island County Public Works for a nonrefundable price of \$25.00. If documents are to be mailed, there is an additional \$5 shipping fee. Checks are to be made payable to Island County Public Works. Bidding documents are also available for review M-F 8:00 AM - 4:00 PM at the Island County Public Works counter in Coupeville, WA at 1 NE 6th Street.  
**BIDDER RESPONSIBILITY:** All Bidders must meet the mandatory bidder responsibility criteria set forth in RCW 39.04.350(1). Bidders must also meet supplemental bidder responsibility criteria as set out in the bidding documents and Contract Provisions. See the bidding documents for further information.  
Published: February 3, 2022. EDH947929

**MUKILTEO SCHOOL DISTRICT**  
**Notice of Invitation to Bid**

Sealed bids will be received by the Mukilteo School District No. 6 up to but not later than 2:00 PM February 18, 2022 for:  
**PUBLICATION SERVICES PAPER**

Envelopes shall be marked "Bid Opening, 2:00 PM, February 18, 2022," and be addressed to the attention of Greg Anderson, Publication Services, 9001 Airport Road, Building 3, Everett, Washington 98204 or emailed to andersonsoga@mukilteo.wednet.edu.

Each bid shall conform to those instructions, conditions and specifications contained in the Information for Bidders, incorporated by reference into this invitation and filed at the above address.

Bid packets are available at Publication Services, 9001 Airport Road, Building 3, Everett, Washington 98204, or by email at andersonsoga@mukilteo.wednet.edu.

### Probate Notices

NO. 21-4-07323-2 SEA  
PROBATE  
NOTICE TO CREDITORS  
IN THE SUPERIOR COURT  
OF THE  
STATE OF WASHINGTON  
FOR KING COUNTY  
In Re the Estate of  
MARILYN M. BUCHET,  
Deceased.

The personal representative named below has been appointed as personal representative of this estate. Any person having a claim against the decedent must, before the claim would be barred by any otherwise applicable statute of limitations, present the claim in the manner as provided in RCW 11.40.070, by serving on or mailing to the personal representative or the personal representative's attorney at the address stated below a copy of the claim and filing the original of the claim with the court. The claim must be presented within the later of: (a) Thirty days after the personal representative served or mailed the notice to the creditor as provided under RCW 11.40.020(3); or (2) four months after the date of first publication of the notice. If the claim is not presented within this time frame, the claim is forever barred, except as otherwise provided in RCW 11.40.051 and 11.40.060. This bar is effective as to claims against both the decedent's probate and nonprobate assets.  
Date of First Publication: January 27, 2022.  
Personal Representative: PETER E. BUCHET  
Attorneys for Personal Representative: OSTREM LAW, PLLC  
Address for Mailing or Service: 8905 Roosevelt Way NE Seattle, WA 98115  
EDH947466  
Published: January 27, February 3, 10, 2022.

### Probate Notices

No. 22-4-00155-31  
PROBATE  
NOTICE TO CREDITORS  
SUPERIOR COURT of  
Washington  
County of Snohomish  
In re Estate of:  
RONALD LEE HUWE and  
EDNA HUWE  
Deceased.

The Personal Representative named below has been appointed as Personal Representative of this estate. Any person having a claim against the Decedent must, before the time the claim would be barred by any otherwise applicable statute of limitations, present the claim in the manner as provided in RCW 11.40.070 by serving on or mailing to the personal representative or the personal representative's attorney at the address stated below a copy of the claim and filing the original of the claim with the Court in which the probate proceedings were commenced. The claim must be presented within the later of: (1) Thirty days after the personal representative served or mailed the notice to the creditor as provided under RCW 11.40.020(1)(c); or (2) four months after the date of first publication of this notice. If the claim is not presented within this time frame, the claim is forever barred, except as otherwise provided in RCW 11.40.051 and 11.40.060. This bar is effective as to claims against both the decedent's probate and nonprobate assets.  
DATE OF FIRST PUBLICATION: January 27, 2022  
Personal Representative: Julie Lynne Murphy  
Attorney for Personal Representative: Timothy A. Lechner  
Address for Mailing or Service: Timothy A. Lechner 429 202nd Place SW Lynnwood, WA 98036  
Court of Probate Proceedings: Snohomish County



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## Titcomb, Sarah

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**From:** Moore, Megan  
**Sent:** Thursday, February 3, 2022 9:17 AM  
**Subject:** DNS Issued for Code Project Relating to Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits  
**Attachments:** Appeal\_Hearing\_Notice\_\_DNS\_and\_Environmental\_Checklist\_20220201.pdf

### SEPA NOTIFICATION

**Notice is Hereby Given** that SNOHOMISH COUNTY PLANNING AND DEVELOPMENT SERVICES (PDS) has issued a Determination of Non-significance (DNS) for a non-project action.

**Description of Proposal:** This is a non-project proposal to amend Snohomish County Code (SCC) Title 30 to streamline the noticing process for Type 1 permit open record appeal hearings, and align the code for the noticing of Type 2 permit closed record appeal hearings with practice. More specifically, SCC 30.71.080(2) will be amended to clarify that the Office of Hearings Administration will notice all Type 1 open record appeals by emailing the notice to required parties, unless a party of record specified a need for physical mail. SCC 30.71.080(3) and (4) will be eliminated to streamline the noticing process for Type 1 permit appeal hearings. SCC 30.72.100(1) will be amended to clarify that the council clerk can email notices of Type 2 permit appeal hearings unless a party of record specified the need for physical mail.

**Project Proponent:** Snohomish County PDS. PDS determined that this non-project proposal will not have a probable significant adverse impact on the environment.

**Date of Issuance:** February 3, 2022

**Contact:** Sarah Titcomb, Principal Planner, (425) 262-2128, or Sarah.Titcomb@snoco.org.

**SEPA Comments Due:** This DNS is issued under WAC 197-11-340(2). The lead agency will not act on this proposal for 14 days from the issue date above. Comments must be submitted by 5:00 p.m., February 17, 2022, to the responsible official at the address listed on the DNS.

Additional information regarding the proposed legislation is available at the County's website at: <https://snohomishcountywa.gov/1603/Environmental-SEPADocuments>

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Copies are available at Snohomish County Planning and Development Services  
3000 Rockefeller Ave. M/S 604, Everett, WA 98201

**Megan Moore** | *Administrative Assistant*  
Snohomish County Planning and Development Services  
[megan.moore@snoco.org](mailto:megan.moore@snoco.org) | (425) 262-2891  
she/her

NOTICE: All emails and attachments sent to and from Snohomish County are public records and may be subject to disclosure pursuant to the Public Records Act (RCW 42.56).



**Snohomish County**

**Planning and Development Services**

3000 Rockefeller Ave., M/S 604  
Everett, WA 98201-4046  
(425) 388-3311  
[www.snoco.org](http://www.snoco.org)

**Dave Somers**  
*County Executive*

## **DETERMINATION OF NONSIGNIFICANCE**

**Proponent:** Snohomish County Department of Planning and Development Services  
County Administration Building  
3000 Rockefeller Avenue, M/S 604  
Everett, WA 98201

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RELATING TO NOTICE REQUIREMENTS FOR TYPE 1 AND TYPE 2 PERMITS  
APPEAL HEARING IN TITLE 30 OF THE SNOHOMISH COUNTY CODE (SCC),  
AMENDING SCC 30.70.080 and SCC 30.72.100

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**Responsible Official:** David Killingstad  
**Position/Title:** Manager, Long Range Planning  
**Address:** 3000 Rockefeller Avenue, M/S #604  
Everett, WA 98201-4046

*David Killingstad*

---

David Killingstad, Manager

For further information, contact Sarah Titcomb, Planning and Development Services, (425) 262-2128 or [sarah.titcomb@snoco.org](mailto:sarah.titcomb@snoco.org). Please include your full name and mailing address in any email comments.

**Date Issued:** February 3, 2022

**Date Published:** February 3, 2022



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**Snohomish County**  
**Planning and Development Services**

3000 Rockefeller Ave., M/S 604  
Everett, WA 98201-4046  
(425) 388-3311  
[www.snoco.org](http://www.snoco.org)

**Dave Somers**  
*County Executive*

## **SNOHOMISH COUNTY ENVIRONMENTAL CHECKLIST**

### **Purpose of Checklist**

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information on the impacts from this proposal (and to reduce or avoid impacts if possible) to help the agency decide whether an EIS is required.

### **A. Background**

**1. Name of proposed project:**

Revising Notice Requirements for Type 1 and Type 2 Permits Appeal Hearing

**2. Name of applicant:**

Snohomish County, Department of Planning and Development Services.

**3. Address and phone number of applicant and contact person:**

Sarah Titcomb, Project Manager  
3000 Rockefeller, M/S 604  
Everett, WA 98201  
Phone: 425-262-2128  
Email: Sarah.Titcomb@snoco.org

**4. Date checklist prepared:**

January 21, 2022

**5. Agency requesting checklist:**

Snohomish County, Department of Planning and Development Services

**6. Proposed timing or schedule (including phasing, if applicable):**

Planning Commission briefing: February 22, 2022

Planning Commission public hearing: March 22, 2022

County Council public hearing: To be determined

**7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.**

This proposal is for a non-project action with no directly related plans for future activities associated with these code amendments.

**8. List any environmental information you know about what has been prepared, or will be prepared, directly related to this proposal.**

The proposed ordinance is consistent with the policies and goals of the adopted Growth Management Act Comprehensive Plan, which included an EIS that was adopted on June 3, 2015. No additional environmental information or studies have been prepared for the proposed development regulations.

**9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.**

This is a non-project action which affects the regulations surrounding noticing appeal hearings for Type 1 and Type 2 permits. The non-project action is not associated with a specific property.

**10. List any government approvals or permits that will be needed for your proposal, if known.**

No government approvals or permits are required for this proposal. The Snohomish County Planning Commission will make a recommendation to the County Council, who may adopt the amendment as proposed, revise the proposed amendment, or take no action.

**11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.**

Relating to Appeal Hearing Notice Requirements for Type 1 And Type 2 Permits in Title 30 of the Snohomish County Code (SCC), AMENDING SCC 30.70.080 and SCC 30.72.100

- The proposed ordinance would amend SCC 30.71.080(2) to clarify that the Office of Hearings Administration will notice all Type 1 open record appeals by emailing the notice to required parties, unless a party of record specified a need for physical mail.
- The proposed ordinance would eliminate SCC 30.71.080(3) and (4) to streamline the noticing process for Type 1 permit appeal hearings.
- The proposed ordinance would add language to SCC 30.72.100(1) to clarify that the council clerk can email notices of Type 2 permit appeal hearings unless a party of record specified the need for physical mail.

**12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.**

This non-project proposal that would be in effect throughout the jurisdiction of Snohomish County.

**B. Environmental Elements**

**1. Earth**

**a. General description of the site:**

(Circle one): **Flat, rolling, hilly, steep slopes, mountainous, other \_\_\_\_\_**

Lands within the jurisdiction of Snohomish County include a variation of terrain such as flat, rolling, hilly, and steep slopes.

**b. What is the steepest slope on the site (approximate percent slope)?**

Slopes in excess of 100% can be found within the jurisdiction of Snohomish County.

**c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.**

A range of soil types are found within the jurisdiction of Snohomish County.



**d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.**

Certain areas within Snohomish County have a history of surface instability associated with periods of heavy rainfall. Other areas have a history of more deep-seated instability associated with landslide activity.

**e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.**

As a non-project action, no filling or grading is proposed. Any future site-specific development or land use proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review of any proposed grading or filling activity.

**f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.**

As a non-project action, no erosion will occur as a direct result of this proposal. Any future site-specific development or land use proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review of any proposed clearing and construction that might result in erosion.

**g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?**

As a non-project action, no impervious surface coverage will occur as a result of this proposal.

**h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:**

As a non-project action, no erosion reduction or control measures are proposed or required. Future site-specific development or land use action not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project level SEPA and regulatory review and would require the implementation of applicable County regulations to reduce or control erosion or other impacts to the earth.

## 2. Air

- a. **What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.**

As a non-project action, no emissions to air will occur as a result of this proposal.

- b. **Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.**

Not applicable.

- c. **Proposed measures to reduce or control emissions or other impacts to air, if any:**

As a non-project action, no measures to reduce or control emissions are required or proposed. Future site-specific development or land use action not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project level SEPA and regulatory review and would require the implementation of applicable County regulations to reduce or control emissions or other impacts to air, if any.

## 3. Water

- a. **Surface Water:**

- 1) **Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**

There are several streams, seasonal streams, and bodies of water located within Snohomish County.

- 2) **Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.**

As a non-project action, this proposal will not require any work in, or adjacent to, the described waters. Future site-specific development or land use action not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project level SEPA and regulatory review and would require the implementation of applicable County regulations to reduce or control activities near surface water bodies, if any.

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.**

As a non-project action, no fill or dredge material will be placed or removed from surface water or wetlands.

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.**

As a non-project action, no surface water withdrawals or diversion will be required.

- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.**

Not applicable as this is a non-project action.

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.**

As a non-project action, no discharges of waste materials to surface waters will occur as a result of this proposal.

**b. Ground Water:**

- 1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.**

As a non-project action, no groundwater will be withdrawn or discharged.

- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**

As a non-project action, no waste material will be discharged from septic tanks or other sources as a result of this proposal. Future development or land use actions not exempted by WAC 197-11-800 or SCC 30.61.035 that would likely result in discharges from stormwater runoff would be subject to project-level SEPA and regulatory review.

**c. Water runoff (including stormwater):**

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**

As a non-project action, no runoff will occur as a result of this proposal. Any future site-specific development or land use action proposal would be subject to a separate SEPA and development permit review, which would address runoff management.

- 2) Could waste materials enter ground or surface waters? If so, generally describe.**

As a non-project action, no runoff will occur as a result of this proposal. Any future site-specific development or land use action proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and development permit review, which would address runoff management.

**d. Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.**

As a non-project action, no drainage patterns will be affected as a result of this proposal. Any future site-specific development or land use proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and permit review, which would address drainage.

**e. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:**

As a non-project action, no measures are proposed or required to reduce impacts to surface or groundwaters. Any future site-specific development or land use proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and permit review.

**4. Plants**

**a. Check the types of vegetation found on the site:**

  X   deciduous tree: alder, maple, aspen, other

  X   evergreen tree: fir, cedar, pine, other

  X   shrubs

  X   grass

  X   pasture

  X   crop or grain

- Orchards, vineyards or other permanent crops.
- wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation

All types of the above vegetation occur in various locations throughout the county.

**b. What kind and amount of vegetation will be removed or altered?**

As a non-project action, no vegetation will be removed as a direct result of this proposal. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA evaluation of any proposed vegetation removal or alteration.

**c. List threatened and endangered species known to be on or near the site.**

U.S Fish and Wildlife Services provides listing for Endangered Species Act (ESA) species under its jurisdiction. National Marine Fisheries Service provides listing for ESA species under its jurisdiction. Washington State Department of Fish and Wildlife provides listing for sensitive species under its jurisdiction. Washington State Department of Natural Resources provides legal listing of sensitive species under its jurisdiction.

**d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:**

As a non-project action, no measures to preserve or enhance vegetation are required for this proposal. Any future site-specific development or land use action proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and permit review, which would include review of any proposed landscaping or measures to preserve or enhance vegetation on the site.

**e. List all noxious weeds and invasive species known to be on or near the site.**

All types of noxious weeds and invasive species occur throughout the county.

**5. Animals**

**a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.**

Birds: **hawk, heron, eagle, songbirds, other:** \_\_\_\_\_

Mammals: **deer, bear, elk, beaver, other:** \_\_\_\_\_

Fish: **bass, salmon, trout, herring, shellfish, other:** \_\_\_\_\_

All of the above animal species may be found in various locations throughout the county.

**b. List any threatened and endangered species known to be on or near the site.**

U.S Fish and Wildlife Services provides listing for ESA species under its jurisdiction. National Marine Fisheries Service provides listing for ESA species under its jurisdiction. Washington State Department of Fish and Wildlife provides legal listing for sensitive species under its jurisdiction. Washington State Department of Natural Resources provides legal listing of sensitive species under its jurisdiction.

**c. Is the site part of a migration route? If so, explain.**

Yes. Wildlife species do migrate through the county, but as a non-project action, this proposal will not impact migratory species.

**d. Proposed measures to preserve or enhance wildlife, if any:**

As a non-project action, no measures to preserve or enhance wildlife are required or proposed. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to preserve or enhance wildlife, if any.

**e. List any invasive animal species known to be on or near the site.**

All types of invasive animal species that occur throughout the county.

**6. Energy and Natural Resources**

**a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**

As a non-project action, energy will not be consumed.

**b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**

As a non-project action, there will be no impact on solar energy as a result of this proposal.

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:**

As a non-project action, energy conservation features are not applicable to this project. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control energy impacts, if any.

## **7. Environmental Health**

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.**

As a non-project action, no environmental health hazards will result as a consequence of this proposal.

- 1) Describe any known or possible contamination at the site from present or past uses.**

As a non-project action, this is not applicable. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include identification of known or possible contamination, if any.

- 2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.**

As a non-project action, this is not applicable. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include identification existing hazardous chemicals/conditions, if any.

- 3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**

As a non-project action, this is not applicable. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include a review of toxic or hazardous chemicals stored, used, or produced during the project's development or construction, or at any time during the operating life of the project, if any.

**4) Describe special emergency services that might be required.**

As a non-project action, no special emergency services are required by this proposal.

**5) Proposed measures to reduce or control environmental health hazards, if any:**

As a non-project action, no measures to reduce or control environmental health hazards are required for this proposal. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control environmental health hazards, if any.

**b. Noise**

**1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?**

This non-project action will not be affected by noise.

**2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.**

This non-project action will not generate noise.

**3) Proposed measures to reduce or control noise impacts, if any:**

As a non-project action, no measures to reduce or control noise impacts are required or proposed. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control noise impacts, if any.

**8. Land and Shoreline Use**

**a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.**

This is a non-project proposal and a variety of uses exist within the jurisdiction of Snohomish County.

**b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term**



**commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?**

As a non-project action, no working farmlands or working forests will be converted. There are working farmlands and forest lands within the jurisdiction of Snohomish County.

**1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:**

As a non-project action, this proposal will not directly affect or be affected by surrounding working farm or forest lands. This proposed non-project action does not change existing regulations or protections relating to working farm or forest lands.

**c. Describe any structures on the site.**

Not applicable to this non-project action.

**d. Will any structures be demolished? If so, what?**

As a non-project action, no structures will be demolished as a result of this proposal.

**e. What is the current zoning classification of the site?**

This is a non-project action that pertains to all zoning classifications within the jurisdiction of Snohomish County.

**f. What is the current comprehensive plan designation of the site?**

This is a non-project action that pertains to all future land use designations within the jurisdiction of Snohomish County.

**g. If applicable, what is the current shoreline master program designation of the site?**

Not applicable to this non-project action.

**h. Has any part of the site been classified as a critical area by the city or county? If so, specify.**

Not applicable to this non-project action.

**i. Approximately how many people would reside or work in the completed project?**

As a non-project action, this is not applicable.

**j. Approximately how many people would the completed project displace?**

As a non-project action, this is not applicable.

**k. Proposed measures to avoid or reduce displacement impacts, if any:**

As a non-project action, no measures to avoid or reduce displacement impacts are required by this proposal.

**l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:**

The proposed code amendments are compatible with the land use plans and regulations.

**m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:**

As a non-project action, no impacts to agricultural and forest lands of long-term commercial significance would occur as a result of this proposal. This proposed non-project action does not change existing regulations or protections relating to agricultural and forest lands of long-term commercial significance.

**9. Housing**

**a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**

As a non-project action, no housing units would be provided by this proposal.

**b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.**

As a non-project action, no housing units would be eliminated by this proposal.

**c. Proposed measures to reduce or control housing impacts, if any:**

As a non-project action, no measures to reduce or control impacts to housing are required or proposed.

## 10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**

As a non-project action, no structures are proposed. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which will include review of structure height and building materials.

- b. What views in the immediate vicinity would be altered or obstructed?**

As a non-project action, no views will be altered or obstructed as a result of this proposal. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which will include review of views that may be altered or obstructed.

- c. Proposed measures to reduce or control aesthetic impacts, if any:**

As a non-project action, no measures to reduce or control aesthetic impacts are required or proposed. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control aesthetic impacts, if any.

## 11. Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?**

As a non-project action, no light or glare will occur as a result of this proposal.

- b. Could light or glare from the finished project be a safety hazard or interfere with views?**

As a non-project action, no light or glare that could be a safety hazard or interfere with views will result from this proposal. Any future site-specific development proposals not exempted by WAC 197-11-800 or SCC 30.61.035 will be subject to a separate SEPA and applicable permit reviews, which will include review of light and glare from the development.

- c. What existing off-site sources of light or glare may affect your proposal?**

Not applicable to this non-project action.

**d. Proposed measures to reduce or control light and glare impacts, if any:**

As a non-project action, no measures to reduce or control light and glare impacts are required or proposed. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control light and glare impact, if any.

**12. Recreation**

**a. What designated and informal recreational opportunities are in the immediate vicinity?**

Hunting, fishing, bird watching and many other recreational opportunities exist.

**b. Would the proposed project displace any existing recreational uses? If so, describe.**

As a non-project action, no existing recreational uses will be displaced.

**c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:**

As a non-project action, no measures to reduce or control impacts on recreation are proposed or required. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control impacts on recreation, including recreation opportunities to be provide by the project or applicant, if any.

**13. Historic and cultural preservation**

**a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.**

Not applicable to this non-project action.

**b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.**

Not applicable to this non-project action. Future development proposals may be conditioned or subject to further review on a site-specific basis under Chapter 30.32D SCC – Historic and Archaeological Resources.

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.**

Not applicable to this non-project action. Future development proposals may be conditioned or subject to further review on a site-specific basis under Chapter 30.32D SCC – Historic and Archaeological Resources.

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.**

As a non-project action, no measures to reduce or control impacts on recreation are proposed or required. Any future site-specific development proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any.

#### **14. Transportation**

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.**

Various highways and several state routes and local streets service Snohomish County.

- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?**

Various transit services exist in Snohomish County.

- c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?**

As a non-project action, no parking spaces are proposed or required. Future site-specific development must meet the minimum parking requirements as mandated by Chapter 30.26 of the Snohomish County Code.

- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).**

As a non-project proposal, new transportation improvements are not required or proposed. Future site-specific development will be reviewed for impacts to the roadway system and improvements to existing roadways may be required on a project-by-project basis.

- e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**

Not applicable to this non-project action.

- f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?**

This non-project action will not directly generate any vehicular trips per day. Any future site-specific development or land use proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and permit review, which would include review of traffic issues.

- g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.**

As a non-project action, the proposal will not interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets. Any future development or land use proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and permit review, which will include review of impacts interfering, affecting, or resulting from the movement of agricultural and forest products on roads or streets.

- h. Proposed measures to reduce or control transportation impacts, if any:**

As a non-project action, no measures to reduce or control transportation are proposed or required. Any future site-specific development or land use action not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA and concurrency review, which would include implementation of measures to reduce or control any transportation impacts.

## 15. Public Services

- a. **Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.**

As a non-project action, this proposal will not result in an increased need for public services. Site-specific project actions may affect services such as fire and police. These impacts will be reviewed during the project level permitting of the development.

- b. **Proposed measures to reduce or control direct impacts on public services, if any.**

As a non-project action, no measures to reduce or control impacts on public services are proposed or required. Any future site-specific development or land use action proposal not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to a separate SEPA review, which would include review and implementation of measures to reduce or control any impacts on public services.

## 16. Utilities

- a. **Circle utilities currently available at the site:**

Electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other \_\_\_\_\_

Not applicable to this non-project action.


- b. **Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.**

As a non-project action, no utilities are proposed or required. Any future site-specific development or land use action proposal would need to provide electricity to serve the proposed development.

## C. Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: \_\_\_\_\_

  
Sarah Titcomb, Project Manager  
Principal Planner, Planning and Development Services

Date Submitted: January 21, 2022

## **D. Supplemental sheet for non-project actions**

### **1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?**

The proposal will not likely cause any increase in these types of discharges or emissions. As a non-project action, no direct impacts will occur to water or air quality. The proposed code changes will not likely be a direct effect to the production, storage, or release of toxic or hazardous substances; or production of noise.

#### **Proposed measures to avoid or reduce such increases are:**

As a non-project action, this proposal is not likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise. Future site-specific land activity not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project level environmental analysis and threshold determination.

### **2. How would the proposal be likely to affect plants, animals, fish, or marine life?**

As a non-project action, the proposal is not likely to impact animals, fish, or marine life. Future development will be subject to the county's critical area regulations under Title 30, which include provisions to protect streams, wetlands, and wildlife.

#### **Proposed measures to protect or conserve plants, animals, fish, or marine life are:**

The County's critical areas regulations regulate development in environmentally sensitive areas. Future site-specific land activity not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project level environmental analysis and threshold determinations.

### **3. How would the proposal be likely to deplete energy or natural resources?**

The proposal would not likely deplete energy or natural resources.

#### **Proposed measures to protect or conserve energy and natural resources are:**

As a non-project action, no measures to conserve energy or natural resources are necessary for this proposal. Future site-specific land activity not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project-level environmental analysis and threshold determinations.



- 4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

The proposed code amendments would not likely affect environmentally sensitive areas as vegetation removal is prohibited in critical areas and critical area buffers. As a non-project action, this proposal is unlikely to directly affect environmentally sensitive areas or areas designated (or eligible or under study) for government protection.

**Proposed measures to protect such resources or to avoid or reduce impacts are:**

The County's critical areas regulations regulate development in environmentally sensitive areas. Future site-specific land activity not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project level environmental analysis and threshold determinations.

- 5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**

The proposal is not likely to affect land and shoreline use. The County's Shoreline Management Plan regulates development in the shoreline designations. This proposal does not encourage incompatible land or shoreline uses.

**Proposed measures to avoid or reduce shoreline and land use impacts are:**

The County's shoreline and land use regulations regulate development within shoreline areas. Future site-specific development proposals in the shoreline environment are subject to County development regulations implementing the Shoreline Management Program, Chapters 30.44 and 30.67 SCC.

- 6. How would the proposal be likely to increase demands on transportation or public services and utilities?**

As a non-project action, this proposal is unlikely to directly increase demands on transportation or public services and utilities.

**Proposed measures to reduce or respond to such demand(s) are:**

As a non-project action, this proposal is unlikely to directly increase demands on transportation or public services and utilities, so measures to reduce impacts are not applicable. Future site-specific development or land use activity not exempted by WAC 197-11-800 or SCC 30.61.035 would be subject to project-level environmental analysis and threshold determinations.

**7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

The proposal does not conflict with any law or requirements to protect the environment.



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**Snohomish County**  
**Planning and Development Services**

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**MEMORANDUM**

TO: Snohomish County Council **Dave Somers**  
*County Executive*

FROM: Sarah Titcomb, Principal Planner

SUBJECT: Addendum to the February 22, 2022, Staff Report: Proposed Code Amendments related to Appeal Hearing Notice Requirements for Type 1 and Type 2 Permits

DATE: April 25, 2022

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**Introduction**

A staff report dated February 22, 2022, detailing proposed code amendments to chapters 30.71 and 30.72 of Snohomish County Code (SCC) was provided to the Planning Commission. The Planning Commission public hearing for this proposal took place on March 22, 2022, and the Planning Commission recommended approval of the proposal with an amendment. This addendum to the February 22<sup>nd</sup> staff report describes the amendment and the reasons Snohomish County Planning and Development Services (PDS) does not concur with the amendment.

**Planning Commission Recommendation**

As described within the March 28, 2022, Planning Commission Recommendation Letter, the amendment recommended by the Planning Commission is to retain the requirement in code to mail notification of appeal hearings for short subdivisions and State Environmental Policy Act (SEPA) determinations to taxpayers of record in a certain radius around the subject property. The discussion at the Planning Commission public hearing focused on the Planning Commission's desire to not reduce opportunities for public participation.

**PDS Recommendation**

PDS does not support the amendment put forth by the Planning Commission because it would prevent the streamlining of the public noticing process without adding opportunities for public participation. The amendment would retain the three different and inconsistent noticing processes that currently exist and cause confusion within SCC 30.71.080.

The Planning Commission's suggested amendment is not necessary to ensure adequate public participation during the planning process or comply with state regulations. Public input is essential to the review of land use applications. To encourage this involvement at a time in the process when the input can be incorporated into the review, public notice of all new Type 1 applications is published in the county's official newspaper, posted on site, and mailed to all taxpayers of record in a certain radius from the subject property pursuant to SCC 30.70.045. Once a Type 1 decision

has been made by PDS, PDS provides notice of such decision as described in SCC 30.71.040 and 30.70.040. Per SCC 30.91P.110, Type 1 parties of record include the applicant and any appellant as well as any person who submits written comments to PDS prior to a Type 1 decision. Pursuant to SCC 30.71.040, Type 1 permit decisions must be mailed to parties of record, unless the Type 1 permit is subject to SEPA. When a determination of nonsignificance (DNS) or other SEPA document is issued, public notice must be posted, published, and mailed per SCC 30.61.110.

After a Type 1 decision has been issued, only aggrieved parties of record can appeal per SCC 30.71.050(1), and further, only parties to the appeal can participate in the open record appeal hearing. While parties to the appeal can call on specific interested persons to present at the hearing, they may only present relevant testimony on appeal issues and cannot raise any additional issues per SCC 30.71.100.

Due to the procedures within existing code described above, PDS is of the opinion that the removal of the requirement to mail notices of Type 1 appeal hearings to taxpayers of record for short subdivisions and projects subject to SEPA will not reduce opportunities for public engagement with land use development projects.

The primary aim of the proposed code amendments is to streamline the notification process for Type 1 open record appeal hearings. One central way to do this is to align the notification process for short subdivisions and SEPA determinations with the notification process for all other Type 1 appeal hearings. The Planning Commission's amendment would prevent this by retaining the existing code. The existing code is unnecessarily inconsistent because it does not require notice of all Type 1 appeal hearings to be mailed to taxpayers within a certain radius of the subject property. The existing code requires that postcards are mailed only when the appeal hearing is for a short subdivision or SEPA determination. Streamlining the notification process to one method as described below is in line with state requirements as Washington Administrative Code (WAC) 365-196-845 and the Revised Code of Washington (RCW) 36.70B.110(9) state that counties are not required to provide a process for administrative appeals. If the county does allow appeals, the WAC provides examples of reasonable notice measures, although it does not provide specific requirements. It is a similar story for SEPA appeals pursuant to Chapter 43.21C RCW. Therefore, Snohomish County has the discretion to determine the best method to notice Type 1 appeal hearings. Based on research and practice, staff recommends that the Type 1 appeal hearing notification process include emailing the time, date, and place of the open record appeal hearing to the: appellant, the appellant's representative, the department whose decision is being appealed (if outside of PDS), the applicant, the applicant's representative, and all other parties of record.

PDS Staff recommends that the County Council adopt the code amendments in substantially the form presented within the February 22, 2022, staff report. There are minor changes to the proposed code amendments from the language included within the staff report. These changes were made for clarification and do not change the intent or impact of the amendments. For instance, the revision to SCC 30.71.080(2) clarifies that if parties of record did not provide an email address or requested U.S. mail then the notice will be mailed to them via U.S. mail. The February 22, 2022, version implies that the notice will be mailed instead of specifically stating it.