

Index of Records

Project Name Archaeological Resources Code Project

Part 1 - DEPARTMENT OF PLANNING AND DEVELOPMENT SERVICES				
Exhibit #	Record Type	Date	Received From	Exhibit Description
1.0001	Public Participation	3/15/2021	Staff	Parties of Record
1.0002	Public Participation	3/1/2021	WA Department of Commerce	Commerce Email Submittal Receipt 2021-S-2394
1.0003	Public Participation	3/2/2021	WA Department of Commerce	Commerce Acknowledgement Letter 2021-S-2394
1.0004	Public Participation	3/8/2021	The Herald	Affidavit of DNS Publication in the Herald
1.0005	Staff Research	6/4/2020	Staff	Archaeological Review Process v5 2008
1.0006	Staff Research	6/4/2020	Staff	PDS Archaeological Review Permit Process
1.0007	Staff Research	6/4/2020	Staff	Chapter 27.44 RCW Indian Graves and Records
1.0008	Staff Research	6/4/2020	Staff	Chapter 27.53 RCW Archaeological Sites and Resources
1.0009	Staff Research	6/4/2020	Staff	Chapter 68.50 RCW Human Remains
1.0010	Staff Research	6/4/2020	Staff	Chapter 68.60 RCW Abandoned and Historic Cemeteries
1.0011	Staff Research	10/2/2020	Staff	Archaeology Code Comparisons
1.0012	Staff Research	10/2/2020	Staff	Archaeology Survey Analysis
1.0013	Staff Research	10/2/2020	Staff	DAHP Recommended Inadvertent Human Remains Discovery Language
1.0014	SEPA Documents	3/8/2021	Staff	DNS_Archaeology Code_signed
1.0015	SEPA Documents	3/8/2021	Staff	DNS for Herald
1.0016	SEPA Documents	3/8/2021	Staff	DNS postcard notice - Archaeology Code
1.0017	Correspondence	1/27/2021	Staff	01-27-2021-PDS to Julia Gold Tulalip Followup
1.0018	Correspondence	1/31/2021	Tulalip Tribes	01-31-2021-Julia Gold email to PDS - Tulalip Followup
1.0019	Correspondence	2/18/2021	Staff	02-18-2021-ME Office to PDS - Inadvertent Discovery of Human Remains
1.0020	Correspondence	4/15/2021	WA Department of Commerce	04-15-2021-Kirsten Larsen to PDS re Draft Letter of Support
1.0021	Correspondence	4/15/2021	WA Department of Commerce	Attachment Draft Comment Letter 2021-S-2394
1.0022	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Samish Tribe - Snohomish County Code Changes
1.0023	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0024	Correspondence	1/5/2021	Samish Indian Nation	01-05-2021-Samish Tribe email re Snohomish County Code Changes
1.0025	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Snoqualmie Tribe - Snohomish County Code Changes
1.0026	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0027	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Stillaguamish Tribe - Snohomish County Code Changes
1.0028	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0029	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Suquamish Tribe - Snohomish County Code Changes
1.0030	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0031	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Swinomish Tribe - Snohomish County Code Changes
1.0032	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0033	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Tulalip Tribes - Snohomish County Code Changes
1.0034	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0035	Correspondence	1/4/2021	Staff	01-04-2021-DCNR to Upper Skagit Tribe - Snohomish County Code Changes
1.0036	Correspondence	1/4/2021	Staff	Attachment Draft Changes to 30.32D
1.0037	Correspondence	1/19/2021	Staff	01-19-2021-DCNR to Sauk-Suiattle Tribe - Snohomish County Code Changes
1.0038	Correspondence	1/19/2021	Staff	Attachment Draft Changes to 30.32D
1.0039	Correspondence	1/4/2021	Sauk-Suiattle Tribe	01-04-2021-Sauk-Suiattle Tribe email re Snohomish County Code Changes
1.0040	Correspondence	4/1/2021	WA Department of Archaeology and Historic Preservation	04-01-2021-DAHP email 2021-S-2394
1.0041	Correspondence	3/15/2021	Lauren Balisky	03-15-2021-Lauren Balisky email Archaeology Code

1.0001 Parties of Record-Archeology_Code_Project
 Archeology Code Project

Non-Exec# - File Name	Organization	Email Address	Street Address	City	State	Zip Code	Notes
1	Lauren Balisky City of Mukilteo	lbalsiky@mukilteo.wa.gov	11930 Cyrus Way	Mukilteo	WA	98275	
2	Julia Gold Tulalip Tribes of Washington	jgold@tulaliptribes-nsn.gov	6406 Marine Drive	Tulalip	WA	98271	
3	Tom Wooten Samish Indian Nation	tomwooten@samishtribe.nsn.us	P.O. Box 217,	Anacortes	WA	98221-0217	
4	Jackie Ferry Samish Indian Nation	jferry@samishtribe.nsn.us	8327 Summit Park Rd	Anacortes	WA	98221-2738	
5	Bob de los Angeles Snoqualmie Indian Tribe	bobde@snoqualmieltribe.us	P.O. Box 969	Snoqualmie	WA	98065-0969	
6	Steven Mullen Moses Snoqualmie Indian Tribe	steve@snoqualmieltribe.us	P.O. Box 969	Snoqualmie	WA	98065-0969	
7	Adam Osbekoff Snoqualmie Indian Tribe	adam@snoqualmieltribe.us	P.O. Box 969	Snoqualmie	WA	98065-0969	
8	Jaime Martin Snoqualmie Indian Tribe	jaime.martin@snoqualmieltribe.us	P.O. Box 969	Snoqualmie	WA	98065-0969	
9	Shawn Yanity Stillaguamish Tribe of Indians of Washington	syanity@stillaguamish.com	P.O. Box 277	Arlington	WA	98223-0277	
10	Kerry Lyste Stillaguamish Tribe of Indians of Washington	klyste@stillaguamish.com	P.O. Box 277	Arlington	WA	98223-0277	
11	Sam Barr Stillaguamish Tribe of Indians of Washington	sbarr@stillaguamish.com	P.O. Box 277	Arlington	WA	98223-0277	
12	Tracey Boser Stillaguamish Tribe of Indians of Washington	traceyboser@stillaguamish.com	P.O. Box 277	Arlington	WA	98223-0277	
13	Leonard Forsman Suquamish Indian Tribe of the Port Madison Reservation	lforsman@suquamish.nsn.us	P.O. Box 498	Suquamish	WA	98392-0498	
14	Dennis Lewarch Suquamish Indian Tribe of the Port Madison Reservation	dlewarch@suquamish.nsn.us	P.O. Box 498	Suquamish	WA	98392-0498	
15	Steve Edwards Swinomish Indian Tribal Community	sedwards@swinomish.nsn.us	11404 Moorage Way	LaConner	WA	98257-9450	
16	Josephine Jefferson Swinomish Indian Tribal Community	jjefferson@swinomish.nsn.us	11404 Moorage Way	LaConner	WA	98257-9450	
17	Teri Gobin Tulalip Tribes of Washington	trgobin@tulaliptribes-nsn.gov	6406 Marine Drive	Tulalip	WA	98271	
18	Gene Enick Tulalip Tribes of Washington	genick@tulaliptribes-nsn.gov	6406 Marine Drive	Tulalip	WA	98271	
19	Richard Young Tulalip Tribes of Washington	ryoung@tulaliptribes-nsn.gov	6410 23rd Avenue N.E.	Tulalip	WA	98271	
20	Jennifer Washington Upper Skagit Indian Tribe	jenniferw@upperskagit.com	25944 Community Plaza Way	Sedro Woolley	WA	98284-9739	
21	Scott Schuyler Upper Skagit Indian Tribe	sschuyler@upperskagit.com	25944 Community Plaza Way	Sedro Woolley	WA	98284-9739	
22	Nino Maltos Sauk-Suiattle Indian Tribe	chairman@sauk-suiattle.com	5318 Chief Brown Lane	Darrington	WA	98241-9421	
23	Slobodan Mitrovic Sauk-Suiattle Indian Tribe	smitrovic@sauk-suiattle.com	5318 Chief Brown Lane	Darrington	WA	98241-9421	
24	Kevin Joseph Sauk-Suiattle Indian Tribe	kjoseph@sauk-suiattle.com	5318 Chief Brown Lane	Darrington	WA	98241-9421	
25	Kirsten Larsen Washington State Department of Commerce	kirsten.larsen@commerce.wa.gov	1011 Plum Street SE	Olympia	WA	98504	
26	Nicholas Vann Washington State Department of Archaeology and Historic Preservation	nicholas.vann@dahp.wa.gov	1110 Capitol Way S #30	Olympia	WA	98504	
27	Mike Pattison Master Builders Association	mpattison@MBAKS.com	335 116th Avenue SE	Bellevue	WA	98004	
28	Stephanie Jolivet Washington State Department of Archaeology and Historic Preservation	stephanie.jolivet@dahp.wa.gov	1110 Capitol Way S #30	Olympia	WA	98504	
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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: 2021-S-2394

Submittal Date Time: 03/01/2021

Submittal Information

Jurisdiction	Snohomish County
Submittal Type	60-day Notice of Intent to Adopt Amendment
Amendment Type	Development Regulation Amendment

Amendment Information

Brief Description

Proposed to amend Title 30 of the Snohomish County Code to address archaeological resources. The purpose of the proposed amendments is to revise land use regulations associated with archaeological resources to reflect current law, clarify terminology, and increase the protection of archaeological resources in unincorporated Snohomish County.

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	Briefing Staff Report Archaeological Resouces-draft.pdf	03/01/2021 02:23 PM

Contact Information

Prefix	Ms.
First Name	Amber
Last Name	Piona
Title	Planner
Work	(425) 262-2375
Cell	
Email	amber.piona@snoco.org

Yes, I would like to be contacted for Technical Assistance.

Archaeology Code Project

Index # - File Name: 1.0002_Commerce_Email_Submittal-Receipt_2021-S-2394.pdf

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

Amber Piona

Email

amber.piona@snoco.org



STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

03/02/2021

Ms. Amber Piona
Planner
Snohomish County
3000 Rockefeller Ave.
Everett, WA 98201

Sent Via Electronic Mail

Re: Snohomish County--2021-S-2394--60-day Notice of Intent to Adopt Amendment

Dear Ms. Piona:

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 to amend Title 30 of the Snohomish County Code to address archaeological resources. The purpose of the proposed amendments is to revise land use regulations associated with archaeological resources to reflect current law, clarify terminology, and increase the protection of archaeological resources in unincorporated Snohomish County.

We received your submittal on 03/01/2021 and processed it with the Submittal ID 2021-S-2394. Please keep this letter as documentation that you have met this procedural requirement. Your 60-day notice period ends on 04/30/2021.

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, or call Kirsten Larsen, (360) 280-0320.

Sincerely,

Review Team
Growth Management Services

Everett Daily Herald

Affidavit of Publication

State of Washington }

County of Snohomish } ss

Dicy Sheppard 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 EDH921453 DNS ARCHAEOLOGICAL CODE 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 03/08/2021 and ending on 03/08/2021 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is \$117.48.

Dicy Sheppard

Subscribed and sworn before me on this

9th day of March,

2021.



Linda Phillips

Notary Public in and for the State of Washington.

Classified Proof

DETERMINATION OF NON-SIGNIFICANCE

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 code amendments related to the protection of archaeological resources in unincorporated Snohomish County. Ordinance is titled:

RELATING TO GROWTH MANAGEMENT; AMENDING DEVELOPMENT REGULATIONS IN CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE PERTAINING TO ARCHAEOLOGICAL RESOURCES

Proposed Amendments:

This is a non-project proposal to amend Snohomish County Code (SCC) Title 30 to address the regulation of archaeological resources within unincorporated Snohomish County. Specifically, the proposed code amendments are as follows:

1. SCC 30.32D.010 – Language added to clarify that one of the purposes of this section is to comply with all applicable federal and state laws for archaeological and cultural resources. References to Chapter 68.50 RCW and Chapter 68.60 RCW have been added, as well as to the Washington State Information System for Architectural and Archaeological Records Data (WISAARD).
2. SCC 30.70.200 – Replaces the term “archaeology site report” with “archaeological survey report.” Establishes the requirements for a professional archaeological survey report. Allows the Planning and Development Department director to require an archaeological survey report when information provided by the Tribes, the county archaeologist, or the state archaeologist determines that the project location has a high probability for containing archaeological resources. These changes will increase the protection for archaeological resources through reducing the likelihood of inadvertent discovery of archaeological resources during the construction process.
3. SCC 30.70.210 – Updates language and adds references to requirements under state law. Removes the 30-day time limit for tribal comment on potential mitigation measures for projects that include archaeological resources that are listed on the state register. These changes better align the code with state law and best tribal coordination practices.
4. SCC 30.70.220 – Changes the procedure for the inadvertent discovery of archaeological resources to align with state law. Removes the discovery of human remains from this section to the new 30.32D.225 Inadvertent discovery of skeletal human remains below.
5. SCC 30.70.225 – A new section that outlines the process for the inadvertent discovery of human remains. This section has been added to conform to RCWs 27.44.055, 68.50.645, and 68.60.055 on the discovery of skeletal human remains.

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 March 22, 2021, 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

Classified Proof

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.
For further information, contact Amber Piona, Planning and Development Services, (425) 262-2375 or amber.piona@snoco.org. Please include your full name and mailing address in any email comments.
Date Issued: March 8, 2021
Published: March 8, 2021. EDH921453

**Potential or Known Archaeological Site
Development Review Process
April 15, 2008, v.5**

1. A trained PDS staff member who has attended the Cultural Resources training shall receive the initial "Request for Review Routing Form." (Current trained staff who may receive these initial RFR's are: Clarissa Stenstrom, Janice Shouse, Susan Otto and Dave Gressel.)

2. Staff shall access electronic PDS Records under S:\Archaeological. Paper copies are available in the locked Archaeological Records Cabinet (ARC) by Clarissa's desk.

Research the records filed according to Section, Township & Range. Note: Restricted ARC may contain the following: Archaeological Site Reports, Archaeological Surveys, miscellaneous correspondence.

[Snohomish County's MOU with DAHP requires that these records remain locked at all times and that only those who have taken the WA State Cultural Resources Training Program may access them.]

3A. Request assistance from Eric Lenz, if needed, to produce an aerial map of the project for comparison, with STR lines, parcel boundaries, tax account number(s), topo lines and road ID. Compare applicant's proposed development (site plan) to our records including the GIS data provided by DAHP (using ArcView). If you can map it yourself, that is okay too!

3B. Determine if the proposal impacts an archaeological site. Inquiries about existence of cultural sites should be answered "yes" or "unknown."

4A. If the parcel does not contain an archaeological site but is near one, give "Conditional Approval" and enter the following comment/condition on the Front Screen in Amanda to be carried over to the building permit:

This property is in the vicinity of, but not directly on a known archaeological site recorded on the Washington State Department of Archaeology and Historic Preservation's Geographic Information System.

It is possible that ground disturbances may reveal previously unknown archaeological materials. Site disturbances should be closely monitored. In the event that archaeological materials are discovered during project activities, work in the immediate vicinity shall be discontinued, the area secured, and the Department of Planning & Development Services (PDS) notified.

If human remains are found, project activities must cease, the area secured, and both PDS and the Snohomish County Coroner shall be notified. This comment is based on the information available at the time of this review. Should additional information become available, permit conditions may be revised.

For further information call (Insert Name and Contact number of PDS reviewer).

4B. For complex projects such as subdivisions, commercial projects, and shorelines, generate [Amanda Document 1097](#) and address your memo to the project manager (PM). The body of this memo is pretty much the same wording as above.

4C. If the proposed development will impact a site:

➤ Check "Disapproved" on Routing Form. Data-enter in AMANDA under Process line 6510, "Disapproved."

- Prepare a letter informing owner of his responsibility pursuant to County Code by generating **Amanda Document 1096** “Known Archaeological Site Letter”.
- Attach packet of information including the 3 enclosures to be sent with letter.
Enclosures are:
 1. list of State qualified archaeological consultants
 2. copies of RCW 27.44 and 27.53
 3. copy of SCC 30.32D

Under S:\Archaeological, there is an Excel document called “**Log Book of Copies.**” The log, pursuant to our memorandum of understanding between PDS and DAHP, shall contain a record of all persons accessing the record, or records copied, and for whom. This electronic log replaces the paper log initiated by Louise Lindgren.

Per Stephanie Kramer, we should not initiate the distribution of Site Reports and are therefore discouraged from making copies. The form letter has been changed not to identify Site Reports.

You no longer need to make photocopies of your letters to be placed in the Log Folder because your generated letters are all in Amanda. You only need to log who you sent a mapped site to.

6. What happens after the archaeologist, applicant or consultant submits 3 copies of the archaeological report to the person designated in the letter (Amanda Doc 1096)?
 - The reports must go to Clarissa Stenstrom; Clarissa will coordinate with NRC
 - NRC insures that the affected Tribe has a copy
 - NRC insures that DAHP has a copy
 - Clarissa insures that the Report is filed in the ARC; enter data in “**Log of Archaeological Reports Received**” available in S:\Archaeological
 - Close the 6510 line in Amanda – from Disapproved to CLOSE. Under Comment, enter “Arch Report submitted on DATE”
 - Clarissa opens another 6510 line in Amanda and assigns the process line to a Project Manager
 - The PM can consult with Howard or Clarissa, if needed
8. Janice, Susan or Dave should always be designated to receive archaeological reports for SFR-type applications. Front counter staff will:
 - Review the Report (at conclusion, give to Clarissa for ARC Cabinet)
 - Route a copy to the Tribe
 - Route a copy to DAHP
 - Talk to the Tribe and DAHP, if consultation is needed
 - Compile conditions to be placed on the permit
 - Close the 6510 line in Amanda – if approved, choose **CONDITIONALLY APPROVED**
9. What does PDS do if a Tribe requests an archaeological survey be done and PDS has no record that the property is a “known” archaeological site?

Make a copy of the Tribes’ written request and send it to the Applicant. Keep the original in the Master File (Records Center). The Tribes’ memo as written is subject to Public Disclosure. Archaeological reports are NOT subject to Public Disclosure (RCW 42.17.310).

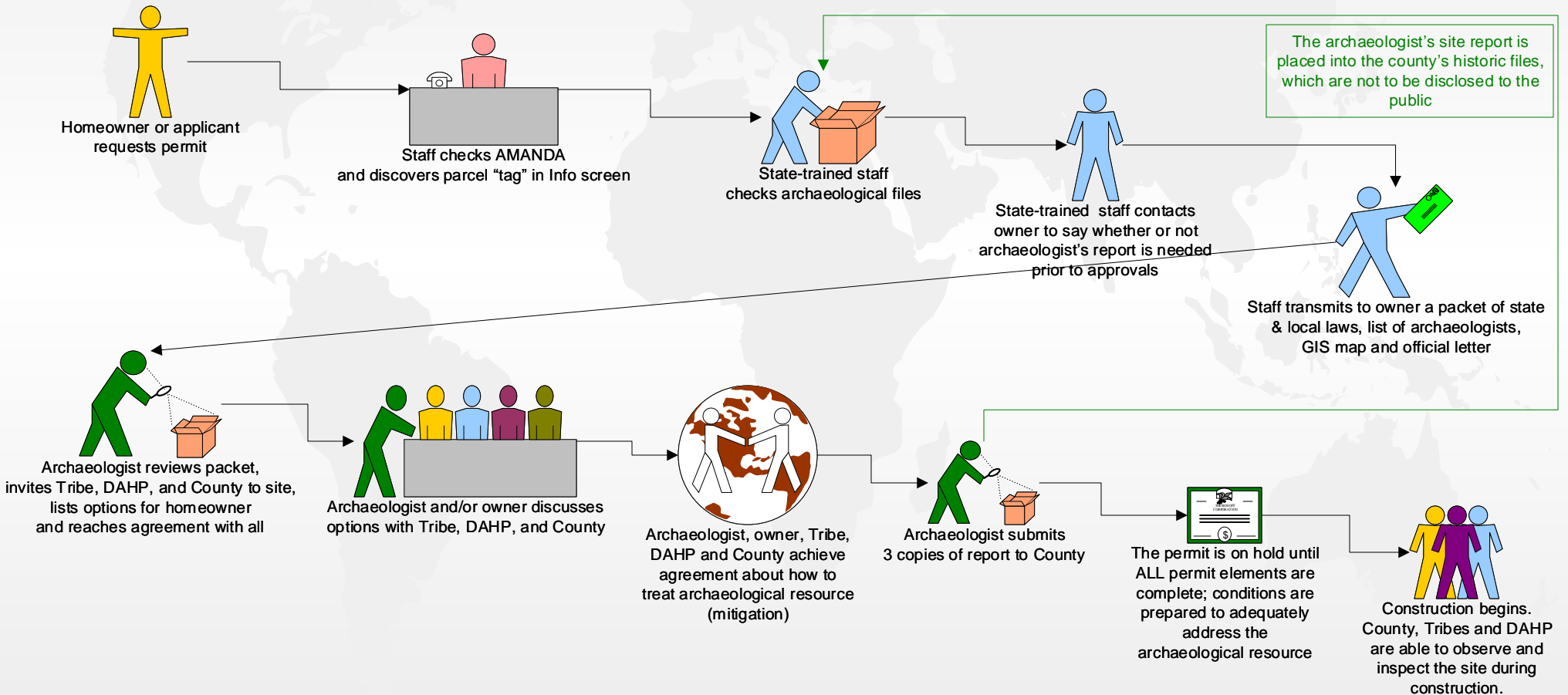
10. What if a PDS staff person, regardless of Division, receives a report that was NOT required by the County? (Usually, this happens when a Tribe requests - during the public comment period – via a Memo addressed to the project manager that the applicant/developer prepare an archaeological survey.)

- The report must go to Clarissa Stenstrom; Clarissa will coordinate with NRC

- NRC insures that the affected Tribe has a copy
- NRC insures that DAHP has a copy
- Clarissa insures that the Report is filed in the ARC; enter data in “*Log of Archaeological Reports Received*” available in S:\Archaeological
- Clarissa opens a 6510 line in Amanda and assigns the process line to a Project Manager
- The PM can consult with Howard or Clarissa, if needed

Archaeological Review Portion of the Building Permit Process

When a parcel contains a possible archaeological resource, certain tasks need to be done. This chart depicts a few basic tasks that need to be done to give a general understanding of the archaeological review portion of the building (and land use) permit process. The tasks are performed by County specialists who are State-trained.



In July, 1999, the county began marking its zoning map to indicate which parcels had or were near lots with archaeological or historic resources. Any staff member could ascertain whether the parcel was tagged, but only certain staff members who were trained by the State DAHP could look in the confidential files and have access to DAHP's GIS program to determine whether the mark indicated a "direct hit" and contained an archaeological resource or if the parcel was simply near a parcel that contained an archaeological resource. In 2007, PDS started to discontinue the markings in the zoning map and are now "tagging" the Info field of property tax account numbers containing sites.

Chapter 27.44 RCW

INDIAN GRAVES AND RECORDS

Sections

- [27.44.020](#) Examination permitted—Removal to archaeological repository.
 - [27.44.030](#) Intent.
 - [27.44.040](#) Protection of Indian graves—Penalty.
 - [27.44.050](#) Civil action by Indian tribe or member—Time for commencing action—Venue—Damages—Attorneys' fees.
 - [27.44.055](#) Skeletal human remains—Duty to notify—Ground disturbing activities—Coroner determination—Definitions.
 - [27.44.901](#) Liberal construction—1989 c 44.
-

RCW [27.44.020](#)

[Examination permitted—Removal to archaeological repository.](#)

Any archaeologist or interested person may copy and examine such glyptic or painted records or examine the surface of any such cairn or grave, but no such record or archaeological material from any such cairn or grave may be removed unless the same shall be destined for reburial or perpetual preservation in a duly recognized archaeological repository and permission for scientific research and removal of specimens of such records and material has been granted by the state historic preservation officer. Whenever a request for permission to remove records or material is received, the state historic preservation officer shall notify the affected Indian tribe or tribes.

[[1985 c 64 § 1](#); [1977 ex.s. c 169 § 6](#); [1941 c 216 § 2](#); Rem. Supp. 1941 § 3207-11.]

NOTES:

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW [28B.10.016](#).

RCW [27.44.030](#)

Intent.

The legislature hereby declares that:

- (1) Native Indian burial grounds and historic graves are acknowledged to be a finite, irreplaceable, and nonrenewable cultural resource, and are an intrinsic part of the cultural heritage of the people of Washington. The legislature recognizes the

value and importance of respecting all graves, and the spiritual significance of such sites to the people of this state;

- (2) There have been reports and incidents of deliberate interference with native Indian and historic graves for profit-making motives;
- (3) There has been careless indifference in cases of accidental disturbance of sites, graves, and burial grounds;
- (4) Indian burial sites, cairns, glyptic markings, and historic graves located on public and private land are to be protected and it is therefore the legislature's intent to encourage voluntary reporting and respectful handling in cases of accidental disturbance and provide enhanced penalties for deliberate desecration.

[[1989 c 44 § 1.](#)]

RCW [27.44.040](#)

Protection of Indian graves—Penalty.

- (1) Any person who knowingly removes, mutilates, defaces, injures, or destroys any cairn or grave of any native Indian, or any glyptic or painted record of any tribe or peoples is guilty of a class C felony punishable under chapter [9A.20](#) RCW. Persons disturbing native Indian graves through inadvertence, including disturbance through construction, mining, logging, agricultural activity, or any other activity, shall reinter the human remains under the supervision of the appropriate Indian tribe. The expenses of reinterment are to be paid by the *office of archaeology and historic preservation pursuant to RCW [27.34.220](#).
- (2) Any person who sells any native Indian artifacts or any human remains that are known to have been taken from an Indian cairn or grave, is guilty of a class C felony punishable under chapter [9A.20](#) RCW.
- (3) This section does not apply to:
 - (a) The possession or sale of native Indian artifacts discovered in or taken from locations other than native Indian cairns or graves, or artifacts that were removed from cairns or graves as may be authorized by RCW [27.53.060](#) or by other than human action; or
 - (b) Actions taken in the performance of official law enforcement duties.
- (4) It shall be a complete defense in the prosecution under this section if the defendant can prove by a preponderance of evidence that the alleged acts were accidental or inadvertent and that reasonable efforts were made to preserve the remains, glyptic, or painted records, or artifacts accidentally disturbed or discovered, and that the accidental discovery or disturbance was properly reported.

[[1989 c 44 § 2.](#)]

NOTES:

***Reviser's note:** Powers, duties, and functions of the office of archaeology and historic preservation were transferred to the department of archaeology and historic preservation pursuant to [2005 c 333 § 12](#).

RCW 27.44.050

Civil action by Indian tribe or member—Time for commencing action—Venue—
Damages—Attorneys' fees.

- (1) Apart from any criminal prosecution, an Indian tribe or enrolled member thereof, shall have a civil action to secure an injunction, damages, or other appropriate relief against any person who is alleged to have violated RCW 27.44.040. The action must be brought within two years of the discovery of the violation by the plaintiff. The action may be filed in the superior or tribal court of the county in which the grave, cairn, remains, or artifacts are located, or in the superior court of the county within which the defendant resides.
- (2) Any conviction pursuant to RCW 27.44.040 shall be prima facie evidence in an action brought under this section.
- (3) If the plaintiff prevails:
 - (a) The court may award reasonable attorneys' fees to the plaintiff;
 - (b) The court may grant injunctive or such other equitable relief as is appropriate, including forfeiture of any artifacts or remains acquired or equipment used in the violation. The court shall order the disposition of any items forfeited as the court sees fit, including the reinterment of human remains;
 - (c) The plaintiff shall recover imputed damages of five hundred dollars or actual damages, whichever is greater. Actual damages include special and general damages, which include damages for emotional distress;
 - (d) The plaintiff may recover punitive damages upon proof that the violation was willful. Punitive damages may be recovered without proof of actual damages. All punitive damages shall be paid by the defendant to the *office of archaeology and historic preservation for the purposes of Indian historic preservation and to cover the cost of reinterment expenses by the office; and
 - (e) An award of imputed or punitive damages may be made only once for a particular violation by a particular person, but shall not preclude the award of such damages based on violations by other persons or on other violations.
- (4) If the defendant prevails, the court may award reasonable attorneys' fees to the defendant.

[1989 c 44 § 3.]

NOTES:

***Reviser's note:** Powers, duties, and functions of the office of archaeology and historic preservation were transferred to the department of archaeology and historic preservation pursuant to 2005 c 333 § 12.

RCW 27.44.055

Skeletal human remains—Duty to notify—Ground disturbing activities—Coroner determination—Definitions.

- (1) Any person who discovers skeletal human remains must notify the coroner and local law enforcement in the most expeditious manner possible. Any person knowing of the existence of human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice thereof is guilty of a misdemeanor.
- (2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:
 - (a) Immediately cease any activity which may cause further disturbance;
 - (b) Make a reasonable effort to protect the area from further disturbance;
 - (c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and
 - (d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:
 - (i) The finding of the remains was based on inadvertent discovery;
 - (ii) The requirements of the subsection are otherwise met; and
 - (iii) The person is otherwise in compliance with applicable law.
- (3) The coroner must make a determination whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.
 - (a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.
 - (b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of nonforensic skeletal human remains does not create a presumption that the remains are Indian.
 - (c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to

the extent possible based on the remains within two business days of notification of a finding of such nonforensic remains. If the remains are determined to be Indian, the department must notify all affected Indian tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

- (d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.
- (4) For the purposes of this section:
- (a) "Affected tribes" are:
 - (i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;
 - (ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and
 - (iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.
 - (b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW [68.50.010](#).
 - (c) "Inadvertent discovery" has the same meaning as used in RCW [27.44.040](#).
- (5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe.

[[2008 c 275 § 2](#).]

NOTES:

Reporting requirements—2008 c 275: See note following RCW [68.50.645](#).

[RCW 27.44.901](#)

Liberal construction—1989 c 44.

This act is to be liberally construed to achieve the legislature's intent.

[[1989 c 44 § 11](#).]

Chapter 27.53 RCW

ARCHAEOLOGICAL SITES AND RESOURCES

Sections

- 27.53.010** Declaration.
- 27.53.020** Archaeological resource preservation—Designation of department of archaeology and historic preservation—Cooperation among agencies.
- 27.53.030** Definitions.
- 27.53.040** Archaeological resources—Declaration.
- 27.53.045** Abandoned archaeological resources—Declaration.
- 27.53.060** Disturbing archaeological resource or site—Permit required—Conditions—Exceptions—Penalty.
- 27.53.070** Field investigations—Communication of site or resource location to department.
- 27.53.080** Archaeological activities upon public lands—Entry—Agreement—Approval of activities—Information regarding results of studies and activities.
- 27.53.090** Violations—Penalty.
- 27.53.095** Knowing and willful failure to obtain or comply with permit—Penalties.
- 27.53.100** Historic archaeological resources on state-owned aquatic lands—Discovery and report—Right of first refusal.
- 27.53.110** Contracts for discovery and salvage of state-owned historic archaeological resources.
- 27.53.120** Recovery of property from historic archaeological sites—Mitigation of damage—Refusal to issue salvage permit to prevent destruction of resource.
- 27.53.130** List of areas requiring permits.
- 27.53.140** Rule-making authority.
- 27.53.150** Proceeds from state's property—Deposit and use.

NOTES:

*Department of archaeology and historic preservation: Chapter **43.334** RCW.*

RCW 27.53.010

Declaration.

The legislature hereby declares that the public has an interest in the conservation, preservation, and protection of the state's archaeological resources, and the knowledge to be derived and gained from the scientific study of these resources.

[**1975 1st ex.s. c 134 § 1.**]

RCW 27.53.020

Archaeological resource preservation—Designation of department of archaeology and historic preservation—Cooperation among agencies.

The discovery, identification, excavation, and study of the state's archaeological resources, the providing of information on archaeological sites for their nomination to the state and national registers of historic places, the maintaining of a complete inventory of archaeological sites and collections, and the providing of information to state, federal, and private construction agencies regarding the possible impact of construction activities on the state's archaeological resources, are proper public functions; and the department of archaeology and historic preservation, created under the authority of chapter **43.334** RCW, is hereby designated as an appropriate agency to carry out these functions. The director shall provide guidelines for the selection of depositories designated by the state for archaeological resources. The legislature directs that there shall be full cooperation amongst the department and other agencies of the state.

[**2005 c 333 § 19**; **2002 c 211 § 2**; **1986 c 266 § 16**; **1977 ex.s. c 195 § 12**; 1975-'76 2nd ex.s. c 82 § 1; **1975 1st ex.s. c 134 § 2**.]

NOTES:

Purpose—2002 c 211: "The purpose of this act is to give the *department of community, trade, and economic development the authority to issue civil penalties to enforce the provisions of permits issued under RCW **27.53.060** and to take into consideration prior penalties issued under chapter **27.53** RCW and under comparable federal laws when issuing permits. Additionally, this act provides guidance to state agencies and political subdivisions of the state when approving archaeological activities on public lands." [**2002 c 211 § 1**.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Severability—1986 c 266: See note following RCW **38.52.005**.

Severability—1977 ex.s. c 195: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [**1977 ex.s. c 195 § 20**.]

RCW 27.53.030

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the

- archaeological resources of the state, and which has been certified in writing by two professional archaeologists.
- (2) "Archaeological object" means an object that comprises the physical evidence of an indigenous and subsequent culture, including material remains of past human life, including monuments, symbols, tools, facilities, and technological by-products.
 - (3) "Archaeological site" means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.
 - (4) "Archaeology" means systematic, scientific study of humankind's past through material remains.
 - (5) "Department" means the department of archaeology and historic preservation, created in chapter **43.334** RCW.
 - (6) "Director" means the director of the department of archaeology and historic preservation, created in chapter **43.334** RCW.
 - (7) "Field investigation" means an on-site inspection by a professional archaeologist or by an individual under the direct supervision of a professional archaeologist employing archaeological inspection techniques for both the surface and subsurface identification of archaeological resources and artifacts resulting in a professional archaeological report detailing the results of such inspection.
 - (8) "Historic" means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term "historic" shall include only those properties which are listed in or eligible for listing in the Washington state register of historic places (RCW **27.34.220**) or the national register of historic places as defined in the national historic preservation act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.
 - (9) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington state register of historic places (RCW **27.34.220**) or the national register of historic places as defined in the national historic preservation act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.
 - (10) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.
 - (11) "Professional archaeologist" means a person with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal secretary of the interior's standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.

[**2013 c 23 § 45**. Prior: **2011 c 219 § 1**; **2008 c 275 § 5**; **2005 c 333 § 20**; **1995 c 399 § 16**; **1989 c 44 § 6**; **1988 c 124 § 2**; **1986 c 266 § 17**; **1983 c 91 § 20**; **1977 ex.s. c 195 § 13**; **1975 1st ex.s. c 134 § 3**.]

NOTES:

Reporting requirements—2008 c 275: See note following RCW **68.50.645**.

Intent—1989 c 44: See RCW **27.44.030**.

Liberal construction—1989 c 44: See RCW **27.44.901**.

Intent—1988 c 124: "It is the intent of the legislature that those historic archaeological resources located on state-owned aquatic lands that are of importance to the history of our state, or its communities, be protected for the people of the state. At the same time, the legislature also recognizes that divers have long enjoyed the recreation of diving near shipwrecks and picking up artifacts from the state-owned aquatic lands, and it is not the intent of the legislature to regulate these occasional, recreational activities except in areas where necessary to protect underwater historic archaeological sites. The legislature also recognizes that salvors who invest in a project to salvage underwater archaeological resources on state-owned aquatic lands should be required to obtain a state permit for their operation in order to protect the interest of the people of the state, as well as to protect the interest of the salvors who have invested considerable time and money in the salvage expedition." [**1988 c 124 § 1**.]

Application—1988 c 124: "This act shall not affect any ongoing salvage effort in which the state has entered into separate contracts or agreements prior to March 18, 1988." [**1988 c 124 § 13**.]

Severability—1986 c 266: See note following RCW **38.52.005**.

Effective date—1983 c 91: See RCW **27.34.910**.

Severability—1977 ex.s. c 195: See note following RCW **27.53.020**.

RCW 27.53.040

Archaeological resources—Declaration.

All sites, objects, structures, artifacts, implements, and locations of prehistorical or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to prehistoric and historic American Indian or aboriginal burials, campsites, dwellings, and habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls and grinding stones, knives, scrapers, rock carvings and paintings, and other implements and artifacts of any material that are located in, on, or under the surface of any lands or waters owned by or under the possession, custody, or control of the state of Washington or any county, city, or political subdivision of the state are hereby declared to be archaeological resources.

[1975 1st ex.s. c 134 § 4.]

RCW 27.53.045

Abandoned archaeological resources—Declaration.

All historic archaeological resources abandoned for thirty years or more in, on, or under the surface of any public lands or waters owned by or under the possession, custody, or control of the state of Washington, including, but not limited to all ships, or aircraft, and any part or the contents thereof, and all treasure trove is hereby declared to be the property of the state of Washington.

[1988 c 124 § 3.]

NOTES:

Intent—Application—1988 c 124: See notes following RCW 27.53.030.

RCW 27.53.060

Disturbing archaeological resource or site—Permit required—Conditions—Exceptions—Penalty.

- (1) On the private and public lands of this state it shall be unlawful for any person, firm, corporation, or any agency or institution of the state or a political subdivision thereof to knowingly remove, alter, dig into, or excavate by use of any mechanical, hydraulic, or other means, or to damage, deface, or destroy any historic or prehistoric archaeological resource or site, or remove any archaeological object from such site, except for Indian graves or cairns, or any glyptic or painted record of any tribe or peoples, or historic graves as defined in chapter 68.05 RCW, disturbances of which shall be a class C felony punishable under chapter 9A.20 RCW, without having obtained a written permit from the director for such activities.
- (2) The director must obtain the consent of the private or public property owner or agency responsible for the management thereof, prior to issuance of the permit. The property owner or agency responsible for the management of such land may condition its consent on the execution of a separate agreement, lease, or other real property conveyance with the applicant as may be necessary to carry out the legal rights or duties of the public property landowner or agency.
- (3) The director, in consultation with the affected tribes, shall develop guidelines for the issuance and processing of permits.
- (4) Such written permit and any agreement or lease or other conveyance required by any public property owner or agency responsible for management

of such land shall be physically present while any such activity is being conducted.

- (5) The provisions of this section shall not apply to the removal of artifacts found exposed on the surface of the ground which are not historic archaeological resources or sites.
- (6) When determining whether to grant or condition a permit, the director may give great weight to the final record of previous civil or criminal penalties against either the applicant, the parties responsible for conducting the work, or the parties responsible for carrying out the terms and conditions of the permit, either under this chapter or under comparable federal laws. If the director denies a permit, the applicant may request a hearing as provided for in chapter **34.05** RCW.

[**2002 c 211 § 3**; **1989 c 44 § 7**; **1988 c 124 § 4**; **1986 c 266 § 18**; **1977 ex.s. c 195 § 14**; 1975-'76 2nd ex.s. c 82 § 2; **1975 1st ex.s. c 134 § 6**.]

NOTES:

Purpose—2002 c 211: See note following RCW **27.53.020**.

Intent—1989 c 44: See RCW **27.44.030**.

Liberal construction—1989 c 44: See RCW **27.44.901**.

Intent—Application—1988 c 124: See notes following RCW **27.53.030**.

Severability—1986 c 266: See note following RCW **38.52.005**.

Severability—1977 ex.s. c 195: See note following RCW **27.53.020**.

RCW 27.53.070

Field investigations—Communication of site or resource location to department.

- (1) It is the declared intention of the legislature that field investigations on privately owned lands should be conducted by professional archaeologists in accordance with both the provisions and spirit of this chapter. Persons having knowledge of the location of archaeological sites or resources are encouraged to communicate such information to the department. Such information shall not constitute a public record which requires disclosure pursuant to the exception authorized in chapter **42.56** RCW to avoid site depredation.
- (2) Nothing in this chapter shall be interpreted to allow trespassing on private property.

[**2011 c 219 § 2**. Prior: **2005 c 333 § 21**; **2005 c 274 § 243**; 1975-'76 2nd ex.s. c 82 § 3; **1975 1st ex.s. c 134 § 7**.]

RCW 27.53.080

Archaeological activities upon public lands—Entry—Agreement—Approval of activities—Information regarding results of studies and activities.

- (1) *Qualified or professional archaeologists, in performance of their duties, may enter upon public lands of the state of Washington and its political subdivisions after first notifying the entity responsible for managing those public lands, at such times and in such manner as not to interfere with the normal management thereof, for the purposes of doing archaeological resource location and evaluation studies, including site sampling activities. The results of such studies shall be provided to the state agency or political subdivision responsible for such lands and the department and are confidential unless the director, in writing, declares otherwise. Scientific excavations are to be carried out only after appropriate agreement has been made between a professional archaeologist or an institution of higher education and the agency or political subdivision responsible for such lands. A copy of such agreement shall be filed with the department.
- (2) Amateur societies may engage in such activities by submitting and having approved by the responsible agency or political subdivision a written proposal detailing the scope and duration of the activity. Before approval, a proposal from an amateur society shall be submitted to the department for review and recommendation. The approving agency or political subdivision shall impose conditions on the scope and duration of the proposed activity necessary to protect the archaeological resources and ensure compliance with applicable federal, state, and local laws. The findings and results of activities authorized under this section shall be made known to the approving agency or political subdivision approving the activities and to the department.

[2005 c 333 § 22; 2002 c 211 § 5; 1986 c 266 § 19; 1977 ex.s. c 195 § 15; 1975 1st ex.s. c 134 § 8.]

NOTES:

***Reviser's note:** RCW **27.53.030** was amended by 2008 c 275 § 5, removing the definition of "qualified archaeologist."

Purpose—2002 c 211: See note following RCW **27.53.020**.

Severability—1986 c 266: See note following RCW **38.52.005**.

Severability—1977 ex.s. c 195: See note following RCW **27.53.020**.

RCW 27.53.090

Violations—Penalty.

Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor. Each day of continued violation of any provision of this

chapter shall constitute a distinct and separate offense. Offenses shall be reported to the appropriate law enforcement agency or to the director.

[**1986 c 266 § 20**; **1977 ex.s. c 195 § 16**; 1975-'76 2nd ex.s. c 82 § 4; **1975 1st ex.s. c 134 § 9**.]

NOTES:

Severability—1986 c 266: See note following RCW **38.52.005**.

Severability—1977 ex.s. c 195: See note following RCW **27.53.020**.

RCW 27.53.095

Knowing and willful failure to obtain or comply with permit—Penalties.

- (1) Persons found to have violated this chapter, either by a knowing and willful failure to obtain a permit where required under RCW **27.53.060** or by a knowing and willful failure to comply with the provisions of a permit issued by the director where required under RCW **27.53.060**, in addition to other remedies as provided for by law, may be subject to one or more of the following:
 - (a) Reasonable investigative costs incurred by a mutually agreed upon independent professional archaeologist investigating the alleged violation;
 - (b) Reasonable site restoration costs; and
 - (c) Civil penalties, as determined by the director, in an amount of not more than five thousand dollars per violation.
- (2) Any person incurring the penalty may file an application for an adjudicative proceeding and may pursue subsequent review as provided in chapter **34.05** RCW and applicable rules of the department.
- (3) Any penalty imposed by final order following an adjudicative proceeding becomes due and payable upon service of the final order.
- (4) The attorney general may bring an action in the name of the department in the superior court of Thurston county or of any county in which the violator may do business to collect any penalty imposed under this chapter and to enforce subsection (5) of this section.
- (5) Any and all artifacts in possession of a violator shall become the property of the state until proper identification of artifact ownership may be determined by the director.
- (6) Penalties overturned on appeal entitle the appealing party to fees and other expenses, including reasonable attorneys' fees, as provided in RCW **4.84.350**.

[**2005 c 333 § 23**; **2002 c 211 § 4**.]

NOTES:

Purpose—2002 c 211: See note following RCW **27.53.020**.

RCW 27.53.100

Historic archaeological resources on state-owned aquatic lands—Discovery and report—Right of first refusal.

Persons, firms, corporations, institutions, or agencies which discover a previously unreported historic archaeological resource on state-owned aquatic lands and report the site or location of such resource to the department shall have a right of first refusal to future salvage permits granted for the recovery of that resource, subject to the provisions of RCW **27.53.110**. Such right of first refusal shall exist for five years from the date of the report. Should another person, firm, corporation, institution, or agency apply for a permit to salvage that resource, the reporting entity shall have sixty days to submit its own permit application and exercise its first refusal right, or the right shall be extinguished.

[**1988 c 124 § 5.**]

NOTES:

Intent—Application—1988 c 124: See notes following RCW **27.53.030**.

RCW 27.53.110

Contracts for discovery and salvage of state-owned historic archaeological resources.

The director is hereby authorized to enter into contracts with other state agencies or institutions and with qualified private institutions, persons, firms, or corporations for the discovery and salvage of state-owned historic archaeological resources. Such contracts shall include but are not limited to the following terms and conditions:

(1) Historic shipwrecks:

- (a) The contract shall provide for fair compensation to a salvor. "Fair compensation" means an amount not less than ninety percent of the appraised value of the objects recovered following successful completion of the contract.
- (b) The salvor may retain objects with a value of up to ninety percent of the appraised value of the total objects recovered, or cash, or a combination of objects and cash. In no event may the total of objects and cash exceed ninety percent of the total appraised value of the objects recovered. A salvor shall not be entitled to further compensation from any state sources.
- (c) The contract shall provide that the state will be given first choice of which objects it may wish to retain for display purposes for the people of the state from among all the objects recovered. The state may retain objects with a value of up to ten percent of the appraised value of the total objects recovered. If the state chooses not to retain recovered objects with a value of up to ten percent of the appraised value, the state shall be entitled to receive its share in cash or a combination of recovered objects and cash

so long as the state's total share does not exceed ten percent of the appraised value of the objects recovered.

- (d) The contract shall provide that both the state and the salvor shall have the right to select a single appraiser or joint appraisers.
- (e) The contract shall also provide that title to the objects shall pass to the salvor when the permit is issued. However, should the salvor fail to fully perform under the terms of the contract, title to all objects recovered shall revert to the state.

(2) Historic aircraft:

- (a) The contract shall provide that historic aircraft belonging to the state of Washington may only be recovered if the purpose of that salvage operation is to recover the aircraft for a museum, historical society, nonprofit organization, or governmental entity.
- (b) Title to the aircraft may only be passed by the state to one of the entities listed in (a) of this subsection.
- (c) Compensation to the salvor shall only be derived from the sale or exchange of the aircraft to one of the entities listed in (a) of this subsection or such other compensation as one of the entities listed in (a) of this subsection and the salvor may arrange. The salvor shall not have a claim to compensation from state funds.

- (3) Other historic archaeological resources: The director, in his or her discretion, may negotiate the terms of such contracts.

[1988 c 124 § 6.]

NOTES:

Intent—Application—1988 c 124: See notes following RCW 27.53.030.

RCW 27.53.120

Recovery of property from historic archaeological sites—Mitigation of damage—Refusal to issue salvage permit to prevent destruction of resource.

The salvor shall agree to mitigate any archaeological damage which occurs during the salvage operation. The department shall have access to all property recovered from historic archaeological sites for purposes of scholarly research and photographic documentation for a period to be agreed upon by the parties following completion of the salvage operation. The department shall also have the right to publish scientific papers concerning the results of all research conducted as project mitigation.

The director has the right to refuse to issue a permit for salvaging an historic archaeological resource if that resource would be destroyed beyond mitigation by the proposed salvage operation. Any agency, institution, person, firm, or corporation which has been denied a permit because the resource would be destroyed beyond mitigation by their method of salvage shall have a right of first refusal for that permit at a future date should technology be found which would make salvage possible without destroying

the resource. Such right of first refusal shall be in effect for sixty days after the director has determined that salvage can be accomplished by a subsequent applicant without destroying the resource.

No person, firm, or corporation may conduct such salvage or recovery operation herein described without first obtaining such contract.

[1988 c 124 § 7.]

NOTES:

Intent—Application—1988 c 124: See notes following RCW 27.53.030.

RCW 27.53.130

List of areas requiring permits.

The department shall publish annually and update as necessary a list of those areas where permits are required to protect historic archaeological sites on aquatic lands.

[1995 c 399 § 17; 1988 c 124 § 10.]

NOTES:

Intent—Application—1988 c 124: See notes following RCW 27.53.030.

RCW 27.53.140

Rule-making authority.

The department shall have such rule-making authority as is necessary to carry out the provisions of this chapter.

[1995 c 399 § 18; 1988 c 124 § 11.]

NOTES:

Intent—Application—1988 c 124: See notes following RCW 27.53.030.

RCW 27.53.150

Proceeds from state's property—Deposit and use.

Any proceeds from the state's share of property under this chapter shall be transmitted to the state treasurer for deposit in the general fund to be used only for the purposes of historic preservation and underwater archaeology.

[1988 c 124 § 12.]

NOTES:

Intent—Application—1988 c 124: See notes following RCW **27.53.030**.

Chapter 68.50 RCW

HUMAN REMAINS

Sections

- 68.50.010** Coroner's jurisdiction over remains.
- 68.50.015** Immunity for determining cause and manner of death—Judicial review of determination.
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- 68.50.032** Transportation of remains directed by coroner or medical examiner—Costs.
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- 68.50.100** Dissection, when permitted—Autopsy of person under the age of three years.
- 68.50.101** Autopsy, postmortem—Who may authorize.
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Time limitation.
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- 68.50.115** Coroner and medical examiner liability—Release of information.
- 68.50.120** Holding body for debt—Penalty.
- 68.50.130** Unlawful disposal of remains.
- 68.50.140** Unlawful disturbance, removal, or sale of human remains—Penalty.
- 68.50.160** Right to control disposition of remains—Liability of funeral establishment or cemetery
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- 68.50.200** Permission to remove human remains.
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- 68.50.220** Exceptions.
- 68.50.230** Human remains that have not been disposed—Rules.
- 68.50.232** Remains—Entrusting to funeral homes or mortuaries.
- 68.50.240** Record of human remains to be kept.

- 68.50.270** Possession of human remains.
- 68.50.290** Corneal tissue for transplantation—Presumption of good faith.
- 68.50.300** Release of information concerning a death.
- 68.50.310** Dental identification system established—Powers and duties.
- 68.50.320** Procedures for investigating missing persons—Availability of files.
- 68.50.330** Identification of body or human remains by dental examination—Comparison of dental examination records with dental records of dental identification system.
- 68.50.645** Skeletal human remains—Duty to notify—Ground disturbing activities—Coroner determination—Definitions.
- 68.50.900** Effective date—1987 c 331.
- 68.50.901** Application—1993 c 228.
- 68.50.902** Application—Construction—1993 c 228.
- 68.50.903** Severability—1993 c 228.
- 68.50.904** Short title—1993 c 228.

NOTES:

Burial and removal permits: RCW 70.58.230.

Coroners to submit blood samples to state toxicologist—Analysis—Utilization of reports: RCW 46.52.065.

County commissioners to dispose of remains of indigents: RCW 36.39.030.

Disposal of remains prohibited unless accompanied by proper permit: RCW 70.58.260.

Fetal deaths: Chapter 70.58 RCW.

Undertaker must file death certificate: RCW 70.58.240.

Veterans and relatives: Chapter 73.24 RCW.

RCW 68.50.010

Coroner's jurisdiction over remains.

*** CHANGE IN 2021 *** (SEE **1326-S.SL**) ***

The jurisdiction of bodies of all deceased persons who come to their death suddenly when in apparent good health without medical attendance within the thirty-six hours preceding death; or where the circumstances of death indicate death was caused by unnatural or unlawful means; or where death occurs under suspicious circumstances; or where a coroner's autopsy or postmortem or coroner's inquest is to be held; or where death results from unknown or obscure causes, or where death occurs within one year following an accident; or where the death is caused by any violence whatsoever, or where death results from a known or suspected abortion; whether self-induced or otherwise; where death apparently results from drowning, hanging, burns, electrocution, gunshot wounds, stabs or cuts, lightning, starvation,

radiation, exposure, alcoholism, narcotics or other addictions, tetanus, strangulations, suffocation or smothering; or where death is due to premature birth or still birth; or where death is due to a violent contagious disease or suspected contagious disease which may be a public health hazard; or where death results from alleged rape, carnal knowledge or sodomy, where death occurs in a jail or prison; where a body is found dead or is not claimed by relatives or friends, is hereby vested in the county coroner, which bodies may be removed and placed in the morgue under such rules as are adopted by the coroner with the approval of the county commissioners, having jurisdiction, providing therein how the bodies shall be brought to and cared for at the morgue and held for the proper identification where necessary.

[**1963 c 178 § 1**; **1953 c 188 § 1**; **1917 c 90 § 3**; RRS § 6042. Formerly RCW **68.08.010**.]

RCW 68.50.015

Immunity for determining cause and manner of death—Judicial review of determination.

A county coroner or county medical examiner or persons acting in that capacity shall be immune from civil liability for determining the cause and manner of death. The accuracy of the determinations is subject to judicial review.

[**1987 c 263 § 1**.]

RCW 68.50.020

Notice to coroner or medical examiner—Penalty.

It shall be the duty of every person who knows of the existence and location of human remains coming under the jurisdiction of the coroner or medical examiner as set forth in RCW **68.50.010** or **27.44.055**, to notify the coroner, medical examiner, or law enforcement thereof in the most expeditious manner possible, unless such person shall have good reason to believe that such notice has already been given. Any person knowing of the existence of such human remains and not having good reason to believe that the coroner has notice thereof and who shall fail to give notice to the coroner as aforesaid, shall be guilty of a misdemeanor. For purposes of this section and unless the context clearly requires otherwise, "human remains" has the same meaning as defined in RCW **68.04.020**. Human remains also includes, but is not limited to, skeletal remains.

[**2016 c 221 § 2**; **1987 c 331 § 55**; **1917 c 90 § 4**; RRS § 6043. Formerly RCW **68.08.020**.]

RCW 68.50.032

Transportation of remains directed by coroner or medical examiner—Costs.

Whenever a coroner or medical examiner assumes jurisdiction over human remains and directs transportation of those remains by a funeral establishment, as defined in RCW **18.39.010**, the reasonable costs of transporting shall be borne by the county if: (1) The funeral establishment transporting the remains is not providing the funeral or disposition services; or (2) the funeral establishment providing the funeral or disposition services is required to transport the remains to a facility other than its own.

Except as provided in RCW **36.39.030**, **68.52.030**, and **73.08.070**, any transportation costs or other costs incurred after the coroner or medical examiner has released jurisdiction over the human remains shall not be borne by the county.
[**1991 c 176 § 1.**]

RCW 68.50.035

Unlawful to refuse burial to non-Caucasian.

It shall be unlawful for any cemetery under this chapter to refuse burial to any person because such person may not be of the Caucasian race.
[**1953 c 290 § 53.** Formerly RCW **68.05.260.**]

RCW 68.50.040

Deceased's effects to be listed.

All jewelry, moneys, papers, and other personal property of the deceased shall be inventoried immediately upon being taken into custody by the coroner or his or her appointees. The original of such lists shall be certified to by the coroner and kept as a public record at the county morgue.
[**2017 c 37 § 5; 2012 c 117 § 314; 1917 c 90 § 6;** RRS § 6045. Formerly RCW **68.08.040.**]

RCW 68.50.050

Removal or concealment of body—Penalty.

- (1) Any person, not authorized or directed by the coroner or medical examiner or their deputies, who removes the body of a deceased person not claimed by a relative or friend, or moves, disturbs, molests, or interferes with the human remains coming within the jurisdiction of the coroner or medical examiner as set

forth in RCW **68.50.010**, to any undertaking rooms or elsewhere, or any person who knowingly directs, aids, or abets such unauthorized moving, disturbing, molesting, or taking, and any person who knowingly conceals the human remains, shall in each of said cases be guilty of a gross misdemeanor.

- (2) In evaluating whether it is necessary to retain jurisdiction and custody of human remains under RCW **68.50.010**, **68.50.645**, and **27.44.055**, the coroner or medical examiner shall consider the deceased's religious beliefs, if known, including the tenets, customs, or rites related to death and burial.
- (3) For purposes of this section and unless the context clearly requires otherwise, "human remains" has the same meaning as defined in RCW **68.04.020**. Human remains also includes, but is not limited to, skeletal remains.

[**2016 c 221 § 1**; **2011 c 96 § 48**; **1917 c 90 § 7**; RRS § 6046. Formerly RCW **68.08.050**.]

NOTES:

Findings—Intent—2011 c 96: See note following RCW **9A.20.021**.

RCW 68.50.060

Bodies for instruction purposes.

Any physician or surgeon of this state, or any medical student under the authority of any such physician or surgeon, may obtain, as hereinafter provided, and have in his or her possession human dead bodies, or the parts thereof, for the purposes of anatomical inquiry or instruction.

[**2012 c 117 § 315**; **1891 c 123 § 1**; RRS § 10026. Formerly RCW **68.08.060**.]

RCW 68.50.070

Human remains—Disposition.

- (1) Any public agency required to provide for the disposition of human remains in any legal manner at public expense must surrender the human remains to:
 - (a) Any physician or surgeon, to be used for the advancement of anatomical science, preference being given to medical schools in this state, for their use in the instruction of medical students; or
 - (b) An accredited educational institution offering funeral services and embalming programs for use in training embalming students under the supervision of an embalmer licensed under chapter **18.39** RCW.
- (2) If the deceased person requested to be buried, or if some person claiming to be a relative or a responsible officer of a religious organization with which the deceased at the time of death was affiliated requires the remains to be buried,

the remains must be buried, subject to the requirements of
RCW **68.50.110** and **68.50.230**.

[**2011 c 265 § 1**; **1959 c 23 § 1**; **1953 c 224 § 2**; **1891 c 123 § 2**; RRS § 10027.
Formerly RCW **68.08.070**.]

RCW 68.50.080

Certificate and bond before receiving bodies.

Every physician or surgeon before receiving the dead body must give to the board or officer surrendering the same to him or her a certificate from the medical society of the county in which he or she resides, or if there is none, from the board of supervisors of the same, that he or she is a fit person to receive such dead body. He or she must also give a bond with two sureties, that each body so by him or her received will be used only for the promotion of anatomical science, and that it will be used for such purpose in this state only, and so as in no event to outrage the public feeling.

[**2012 c 117 § 316**; **1891 c 123 § 3**; RRS § 10028. Formerly RCW **68.08.080**.]

RCW 68.50.090

Penalty.

Any person violating any provision of RCW **68.50.060** through **68.50.080** shall upon conviction thereof be fined in any sum not exceeding five hundred dollars.

[**1987 c 331 § 56**; **1891 c 123 § 4**; RRS § 10029. Formerly RCW **68.08.090**.]

RCW 68.50.100

Dissection, when permitted—Autopsy of person under the age of three years.

- (1) The right to dissect a dead body shall be limited to cases specially provided by statute or by the direction or will of the deceased; cases where a coroner is authorized to hold an inquest upon the body, and then only as he or she may authorize dissection; and cases where the spouse, state registered domestic partner, or next of kin charged by law with the duty of burial shall authorize dissection for the purpose of ascertaining the cause of death, and then only to the extent so authorized: PROVIDED, That the coroner, in his or her discretion, may make or cause to be made by a competent pathologist, toxicologist, or physician, an autopsy or postmortem in any case in which the coroner has jurisdiction of a body: PROVIDED, FURTHER, That the coroner may with the approval of the University of Washington and with the consent of a parent or guardian deliver any body of a deceased person under the age of three years

over which he or she has jurisdiction to the University of Washington medical school for the purpose of having an autopsy made to determine the cause of death.

(2) Every person who shall make, cause, or procure to be made any dissection of a body, except as provided in this section, is guilty of a gross misdemeanor.

[**2007 c 156 § 21; 2003 c 53 § 307; 1963 c 178 § 2; 1953 c 188 § 2; 1909 c 249 § 237; RRS § 2489. Formerly RCW 68.08.100.**]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW **2.48.180**.

RCW 68.50.101

Autopsy, postmortem—Who may authorize.

Autopsy or postmortem may be performed in any case where authorization has been given by a member of one of the following classes of persons in the following order of priority:

- (1) The surviving spouse or state registered domestic partner;
- (2) Any child of the decedent who is eighteen years of age or older;
- (3) One of the parents of the decedent;
- (4) Any adult brother or sister of the decedent;
- (5) A person who was guardian of the decedent at the time of death;
- (6) Any other person or agency authorized or under an obligation to dispose of the remains of the decedent. The chief official of any such agency shall designate one or more persons to execute authorizations pursuant to the provisions of this section.

If the person seeking authority to perform an autopsy or postmortem makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class, in the order of descending priority. However, no person under this section shall have the power to authorize an autopsy or postmortem if a person of higher priority under this section has refused such authorization: PROVIDED, That this section shall not affect autopsies performed pursuant to RCW **68.50.010** or **68.50.103**.

[**2007 c 156 § 22; 1987 c 331 § 57; 1977 c 79 § 1; 1953 c 188 § 11.** Formerly RCW **68.08.101**.]

RCW 68.50.102

Court petition for autopsy—Cost.

Any party by showing just cause may petition the court to have autopsy made and results thereof made known to said party at his or her own expense.

<https://app.leg.wa.gov/rcw/default.aspx?cite=68.50&full=true>

[**2012 c 117 § 317; 1953 c 188 § 12.** Formerly RCW **68.08.102.**]

RCW 68.50.103

Autopsies in industrial deaths.

In an industrial death where the cause of death is unknown, and where the department of labor and industries is concerned, said department in its discretion, may request the coroner in writing to perform an autopsy to determine the cause of death. The coroner shall be required to promptly perform such autopsy upon receipt of the written request from the department of labor and industries.

[**1953 c 188 § 6.** Formerly RCW **68.08.103.**]

RCW 68.50.104

Cost of autopsy.

*** CHANGE IN 2021 *** (SEE **1326-S.SL**) ***

- (1) The cost of autopsy shall be borne by the county in which the autopsy is performed, except when requested by the department of labor and industries, in which case, the department shall bear the cost of such autopsy.
- (2)
 - (a) Except as provided in (b) of this subsection, when the county bears the cost of an autopsy, it shall be reimbursed from the death investigations account, established by RCW **43.79.445**, as follows:
 - (i) Up to forty percent of the cost of contracting for the services of a pathologist to perform an autopsy;
 - (ii) Up to twenty-five percent of the salary of pathologists who are primarily engaged in performing autopsies and are (A) county coroners or county medical examiners, or (B) employees of a county coroner or county medical examiner; and
 - (iii) One hundred percent of the cost of autopsies conducted under RCW **70.54.450**.
 - (b) When the county bears the cost of an autopsy of a child under the age of three whose death was sudden and unexplained, the county shall be reimbursed for the expenses of the autopsy when the death scene investigation and the autopsy have been conducted under RCW **43.103.100** (4) and (5), and the autopsy has been done at a facility designed for the performance of autopsies.
- (3) Payments from the account shall be made pursuant to biennial appropriation: PROVIDED, That no county may reduce funds appropriated for this purpose below 1983 budgeted levels.

[**2019 c 317 § 4; 2001 c 82 § 2; 1983 1st ex.s. c 16 § 14; 1963 c 178 § 3; 1953 c 188 § 7.** Formerly RCW **68.08.104.**]

NOTES:

Effective date—1983 1st ex.s. c 16: See RCW **43.103.901.**

RCW 68.50.105

Autopsies, postmortems—Reports and records confidential—Exceptions.

- (1) Reports and records of autopsies or postmortems shall be confidential, except that the following persons may examine and obtain copies of any such report or record: The personal representative of the decedent as defined in RCW **11.02.005**, any family member, the attending physician or advanced registered nurse practitioner, the prosecuting attorney or law enforcement agencies having jurisdiction, public health officials, the department of labor and industries in cases in which it has an interest under RCW **68.50.103**, or the secretary of the department of children, youth, and families or his or her designee in cases being reviewed under RCW **74.13.640**.
- (2)
 - (a) Notwithstanding the restrictions contained in this section regarding the dissemination of records and reports of autopsies or postmortems, nor the exemptions referenced under RCW **42.56.240**(1), nothing in this chapter prohibits a coroner, medical examiner, or his or her designee, from publicly discussing his or her findings as to any death subject to the jurisdiction of his or her office where actions of a law enforcement officer or corrections officer have been determined to be a proximate cause of the death, except as provided in (b) of this subsection.
 - (b) A coroner, medical examiner, or his or her designee may not publicly discuss his or her findings outside of formal court or inquest proceedings if there is a pending or active criminal investigation, or a criminal or civil action, concerning a death that has commenced prior to January 1, 2014.
- (3) The coroner, the medical examiner, or the attending physician shall, upon request, meet with the family of the decedent to discuss the findings of the autopsy or postmortem. For the purposes of this section, the term "family" means the surviving spouse, state registered domestic partner, or any child, parent, grandparent, grandchild, brother, or sister of the decedent, or any person who was guardian of the decedent at the time of death.

[**2019 c 470 § 14; 2013 c 295 § 1; 2011 c 61 § 1.** Prior: **2007 c 439 § 1; 2007 c 156 § 23; 1987 c 331 § 58; 1985 c 300 § 1; 1977 c 79 § 2; 1953 c 188 § 9.** Formerly RCW **68.08.105.**]

NOTES:

Effective date—2013 c 295: See note following RCW **68.50.115.**

RCW 68.50.106

Autopsies, postmortems—Analyses—Opinions—Evidence—Costs.

In any case in which an autopsy or postmortem is performed, the coroner or medical examiner, upon his or her own authority or upon the request of the prosecuting attorney or other law enforcement agency having jurisdiction, may make or cause to be made an analysis of the stomach contents, blood, or organs, or tissues of a deceased person and secure professional opinions thereon and retain or dispose of any specimens or organs of the deceased which in his or her discretion are desirable or needful for anatomic, bacteriological, chemical, or toxicological examination or upon lawful request are needed or desired for evidence to be presented in court. Costs shall be borne by the county.

[**1993 c 228 § 19**; **1987 c 331 § 59**; 1975-'76 2nd ex.s. c 28 § 1; **1953 c 188 § 10**.
Formerly RCW **68.08.106**.]

RCW 68.50.107

State toxicological laboratory established—State toxicologist.

There shall be established in conjunction with the chief of the Washington state patrol and under the authority of the state forensic investigations council a state toxicological laboratory under the direction of the state toxicologist whose duty it will be to perform all necessary toxicologic procedures requested by all coroners, medical examiners, and prosecuting attorneys. The state forensic investigations council, after consulting with the chief of the Washington state patrol and director of the bureau of forensic laboratory services, shall appoint a toxicologist as state toxicologist, who shall report to the director of the bureau of forensic laboratory services and the office of the chief of the Washington state patrol. Toxicological services shall be funded by disbursement from the spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; spirits, beer, and wine VIP airport lounge; and sports entertainment facility license fees as provided in RCW **66.08.180** and by appropriation from the death investigations account as provided in RCW **43.79.445**.

[**2011 c 325 § 9**; **2009 c 271 § 11**. Prior: **1999 c 281 § 13**; **1999 c 40 § 8**; **1995 c 398 § 10**; **1986 c 87 § 2**; **1983 1st ex.s. c 16 § 10**; 1975-'76 2nd ex.s. c 84 § 1; **1970 ex.s. c 24 § 1**; **1953 c 188 § 13**. Formerly RCW **68.08.107**.]

NOTES:

Effective date—1999 c 40: See note following RCW **43.103.010**.

Effective date—1986 c 87: See note following RCW **66.08.180**.

Effective date—1983 1st ex.s. c 16: See RCW **43.103.901**.

State forensic investigations council: Chapter 43.103 RCW.

RCW 68.50.108

Autopsies, postmortems—Consent to embalm, cremate body, or make final disposition—Time limitation.

No dead body upon which the coroner, or prosecuting attorney, if there is not a coroner in the county, may perform an autopsy or postmortem, may be embalmed or make final disposition without the consent of the coroner having jurisdiction. Failure to obtain such consent is a misdemeanor. However, such autopsy or postmortem must be performed within five days, unless the coroner obtains an order from the superior court extending such time.

[2019 c 432 § 19; 1953 c 188 § 8. Formerly RCW 68.08.108.]

NOTES:

Effective date—2019 c 432: See note following RCW 68.05.175.

RCW 68.50.110

Burial, cremation, alkaline hydrolysis, or natural organic reduction.

Except in cases of dissection provided for in RCW 68.50.100, and where human remains are rightfully carried through or removed from the state for the purpose of burial elsewhere, human remains lying within this state, and the remains of any dissected body, after dissection, must be decently buried, undergo cremation, alkaline hydrolysis, or natural organic reduction within a reasonable time after death.

[2019 c 432 § 20; 2005 c 365 § 138; 1987 c 331 § 60; 1909 c 249 § 238; RRS § 2490. Formerly RCW 68.08.110.]

NOTES:

Effective date—2019 c 432: See note following RCW 68.05.175.

RCW 68.50.115

Coroner and medical examiner liability—Release of information.

No coroner, medical examiner, or his or her designee shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of any information related to his or her findings under RCW 68.50.105 if the coroner, medical examiner, or

his or her designee acted in good faith in attempting to comply with the provisions of this chapter.

[**2013 c 295 § 2.**]

NOTES:

Effective date—2013 c 295: "This act takes effect January 1, 2014." [**2013 c 295 § 3.**]

RCW 68.50.120

Holding body for debt—Penalty.

Every person who arrests, attaches, detains, or claims to detain any human remains for any debt or demand, or upon any pretended lien or charge, is guilty of a gross misdemeanor.

[**1943 c 247 § 27**; Rem. Supp. 1943 § 3778-27. Formerly RCW **68.08.120.**]

RCW 68.50.130

Unlawful disposal of remains.

Every person who performs a disposition of any human remains, except as otherwise provided by law, in any place, except in a cemetery or a building dedicated exclusively for religious purposes, is guilty of a misdemeanor. Disposition of human remains following cremation, alkaline hydrolysis, or natural organic reduction may also occur on private property, with the consent of the property owner; and on public or government lands or waters with the approval of the government agency that has either jurisdiction or control, or both, of the lands or waters.

[**2019 c 432 § 21**; **2005 c 365 § 139**; **1943 c 247 § 28**; Rem. Supp. 1943 § 3778-28. Formerly RCW **68.08.130.**]

NOTES:

Effective date—2019 c 432: See note following RCW **68.05.175.**

RCW 68.50.140

Unlawful disturbance, removal, or sale of human remains—Penalty.

- (1) Every person who removes human remains, or any part thereof, from a grave, vault, or other place where the same has been buried or deposited awaiting final disposition, without authority of law, with intent to sell the same, or for the

purpose of securing a reward for its return, or for dissection, or from malice or wantonness, is guilty of a class C felony.

- (2) Every person who purchases or receives, except for burial or final disposition, human remains or any part thereof, knowing that the same has been removed contrary to the foregoing provisions, is guilty of a class C felony.
- (3) Every person who opens a grave or other place of interment, temporary or otherwise, or a building where human remains are placed, with intent to sell or remove the casket, urn, or of any part thereof, or anything attached thereto, or any vestment, or other article interred, or intended to be interred with the human remains, is guilty of a class C felony.
- (4) Every person who removes, disinters, or mutilates human remains from a place of interment, without authority of law, is guilty of a class C felony.

[**2019 c 432 § 22**; **2005 c 365 § 140**; **2003 c 53 § 308**; **1992 c 7 § 44**; **1909 c 249 § 239**; RRS § 2491. FORMER PART OF SECTION: 1943 c 247 § 25 now codified as RCW **68.50.145**. Formerly RCW **68.08.140**.]

NOTES:

Effective date—2019 c 432: See note following RCW **68.05.175**.

Intent—Effective date—2003 c 53: See notes following RCW **2.48.180**.

RCW 68.50.160

Right to control disposition of remains—Liability of funeral establishment or cemetery authority—Liability for cost.

- (1) A person has the right to control the disposition of his or her own remains without the predeath or postdeath consent of another person. A valid written document expressing the decedent's wishes regarding the place or method of disposition of his or her remains, signed by the decedent in the presence of a witness, is sufficient legal authorization for the procedures to be accomplished.
- (2) Prearrangements that are prepaid, or filed with a licensed funeral establishment or cemetery authority, under RCW **18.39.280** through **18.39.345** and chapter **68.46** RCW are not subject to cancellation or substantial revision by survivors. Absent actual knowledge of contrary legal authorization under this section, a licensed funeral establishment or cemetery authority may not be held criminally nor civilly liable for acting upon such prearrangements.
- (3) If the decedent has not made a prearrangement as set forth in subsection (2) of this section or the costs of executing the decedent's wishes regarding the disposition of the decedent's remains exceeds a reasonable amount or directions have not been given by the decedent, the right to control the disposition of the remains of a deceased person vests in, and the duty of disposition and the liability for the reasonable cost of preparation, care, and disposition of such remains devolves upon the following in the order named:

- (a) The person designated by the decedent as authorized to direct disposition as listed on the decedent's United States department of defense record of emergency data, DD form 93, or its successor form, if the decedent died while serving in military service as described in 10 U.S.C. Sec. 1481(a) (1)-(8) in any branch of the United States armed forces, United States reserve forces, or national guard;
- (b) The designated agent of the decedent as directed through a written document signed and dated by the decedent in the presence of a witness. The direction of the designated agent is sufficient to direct the type, place, and method of disposition;
- (c) The surviving spouse or state registered domestic partner;
- (d) The majority of the surviving adult children of the decedent;
- (e) The surviving parents of the decedent;
- (f) The majority of the surviving siblings of the decedent;
- (g) A court-appointed guardian for the person at the time of the person's death.
- (4) If any person to whom the right of control has vested pursuant to subsection (3) of this section has been arrested or charged with first or second degree murder or first degree manslaughter in connection with the decedent's death, the right of control is relinquished and passed on in accordance with subsection (3) of this section.
- (5) If a cemetery authority as defined in RCW **68.04.190** or a funeral establishment licensed under chapter **18.39** RCW has made a good faith effort to locate the person cited in subsection (3)(a) through (g) of this section or the legal representative of the decedent's estate, the cemetery authority or funeral establishment has the right to rely on an authority to bury or make final disposition of the human remains, executed by the most responsible party available, and the cemetery authority or funeral establishment may not be held criminally or civilly liable for burying or performing final disposition of the human remains. In the event any government agency or charitable organization provides the funds for the disposition of any human remains, the cemetery authority, alkaline hydrolysis, natural organic reduction facility, or funeral establishment may not be held criminally or civilly liable for making final disposition of the human remains.
- (6) The liability for the reasonable cost of preparation, care, and disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred, in the order listed in subsection (3) of this section, and upon the estate of the decedent.

[**2019 c 432 § 23**; **2012 c 5 § 1**; **2011 c 265 § 2**; **2010 c 274 § 602**; **2007 c 156 § 24**; **2005 c 365 § 141**; **1993 c 297 § 1**; **1992 c 108 § 1**; **1943 c 247 § 29**; Rem. Supp. 1943 § 3778-29. Formerly RCW **68.08.160**.]

NOTES:

Effective date—2019 c 432: See note following RCW **68.05.175**.

Intent—2010 c 274: See note following RCW **10.31.100**.

*Disposal of remains of indigent persons: RCW **36.39.030**.*

<https://app.leg.wa.gov/rcw/default.aspx?cite=68.50&full=true>

Order of payment of debts of estate: RCW 11.76.110.

RCW 68.50.170

Effect of authorization.

Any person signing any authorization for the interment, cremation, alkaline hydrolysis, or natural organic reduction of any human remains warrants the truthfulness of any fact set forth in the authorization, the identity of the person whose human remains are sought to undergo final disposition, and his or her authority to order such. That person is personally liable for all damage occasioned by or resulting from breach of such warranty.

[**2019 c 432 § 24**; **2005 c 365 § 142**; **1943 c 247 § 30**; Rem. Supp. 1943 § 3778-30. Formerly RCW **68.08.170**.]

NOTES:

Effective date—2019 c 432: See note following RCW **68.05.175**.

RCW 68.50.185

Individual final disposition—Exception—Penalty.

(1) A person authorized to dispose of human remains may not perform or cause to be performed final disposition of more than one human remains at a time unless written permission, after full and adequate disclosure regarding the manner of disposition, has been received from the person or persons under RCW **68.50.160** having the authority to order final disposition. This restriction does not apply when equipment, techniques, or devices are employed that keep human remains separate and distinct before, during, and after the final disposition process.

(2) Violation of this section is a gross misdemeanor.

[**2019 c 432 § 25**; **2005 c 365 § 143**; **1987 c 331 § 61**; **1985 c 402 § 3**. Formerly RCW **68.08.185**.]

NOTES:

Effective date—2019 c 432: See note following RCW **68.05.175**.

Legislative finding—1985 c 402: "The legislature finds that certain practices in storing human remains and in performing cremations violate common notions of decency and generally held expectations. In enacting this legislation, the legislature is reaffirming that certain practices, which have never been acceptable, violate principles of human dignity." [**1985 c 402 § 1**.]

RCW 68.50.200

Permission to remove human remains.

Human remains may be removed from a plot in a cemetery with the consent of the cemetery authority and the written consent of one of the following in the order named:

- (1) The surviving spouse or state registered domestic partner.
- (2) The surviving children of the decedent.
- (3) The surviving parents of the decedent.
- (4) The surviving brothers or sisters of the decedent.

If the required consent cannot be obtained, permission by the superior court of the county where the cemetery is situated is sufficient: PROVIDED, That the permission shall not violate the terms of a written contract or the rules and regulations of the cemetery authority.

[**2007 c 156 § 25**; **2005 c 365 § 144**; **1943 c 247 § 33**; Rem. Supp. 1943 § 3778-33. Formerly RCW **68.08.200**.]

RCW 68.50.210

Notice for order to remove remains.

Notice of application to the court for such permission shall be given, at least ten days prior thereto, personally, or at least fifteen days prior thereto if by mail, to the cemetery authority and to the persons not consenting, and to every other person on whom service of notice may be required by the court.

[**1943 c 247 § 34**; Rem. Supp. 1943 § 3778-34. Formerly RCW **68.08.210**.]

RCW 68.50.220

Exceptions.

RCW **68.50.200** and **68.50.210** do not apply to or prohibit the removal of any human remains from one plot to another in the same cemetery or the removal of [human] remains by a cemetery authority from a plot for which the purchase price is past due and unpaid, to some other suitable place; nor do they apply to the disinterment of human remains upon order of court or coroner. However, a cemetery authority shall provide notification to the person cited in RCW **68.50.200** before moving human remains.

[**2005 c 365 § 145**; **1987 c 331 § 62**; **1943 c 247 § 35**; Rem. Supp. 1943 § 3778-35. Formerly RCW **68.08.220**.]

RCW 68.50.230

Human remains that have not been disposed—Rules.

- (1) Whenever any human remains shall have been in the lawful possession of any person, firm, corporation, or association for a period of ninety days or more, and the relatives of, or persons interested in, the deceased person shall fail, neglect, or refuse to direct the disposition, the human remains may be disposed of by the person, firm, corporation, or association having such lawful possession thereof, under and in accordance with rules adopted by the funeral and cemetery board, not inconsistent with any statute of the state of Washington or rule adopted by the state board of health.
- (2)
 - (a) The department of veterans affairs may certify that the deceased person to whom subsection (1) of this section applies was a veteran or the dependent of a veteran eligible for interment at a federal or state veterans' cemetery.
 - (b) Upon certification of eligible veteran or dependent of a veteran status under (a) of this subsection, the person, firm, corporation, or association in possession of the veteran's or veteran's dependent's remains shall transfer the custody and control of the remains to the department of veterans affairs.
 - (c) The transfer of human remains under (b) of this subsection does not create:
 - (i) A private right of action against the state or its officers and employees or instrumentalities, or against any person, firm, corporation, or association transferring the remains; or
 - (ii) Liability on behalf of the state, the state's officers, employees, or instrumentalities; or on behalf of the person, firm, corporation, or association transferring the remains.

[2009 c 102 § 20; 2009 c 56 § 1; 2005 c 365 § 146; 1985 c 402 § 9; 1979 c 158 § 218; 1937 c 108 § 14; RRS § 8323-3. Formerly RCW 68.08.230.]

NOTES:

Reviser's note: This section was amended by 2009 c 56 § 1 and by 2009 c 102 § 20, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Legislative finding—1985 c 402: See note following RCW 68.50.185.

RCW 68.50.232

Remains—Entrusting to funeral homes or mortuaries.
See RCW **36.24.155**.

RCW 68.50.240

Record of human remains to be kept.

The person in charge of any premises on which final dispositions are made must keep a record of all human remains on the premises under his or her charge, in each case stating the name of each deceased person, date of final disposition, and name and address of the funeral establishment.

[**2019 c 432 § 26**; **2005 c 365 § 147**; **1943 c 247 § 39**; Rem. Supp. 1943 § 3778-39. Formerly RCW **68.08.240**.]

NOTES:

Effective date—2019 c 432: See note following RCW **68.05.175**.

RCW 68.50.270

Possession of human remains.

The person or persons determined under RCW **68.50.160** as having authority to order disposition is entitled to possession of the human remains without further intervention by the state or its political subdivisions.

[**2019 c 432 § 27**; **2005 c 365 § 148**; **1987 c 331 § 63**; **1977 c 47 § 4**. Formerly RCW **68.08.245**.]

NOTES:

Effective date—2019 c 432: See note following RCW **68.05.175**.

RCW 68.50.290

Corneal tissue for transplantation—Presumption of good faith.

In any subsequent civil action in which the next of kin of a decedent contends that he/she affirmatively informed the county coroner or medical examiner or designee of his/her objection to removal of corneal tissue from the decedent, it shall be presumed

<https://app.leg.wa.gov/rcw/default.aspx?cite=68.50&full=true>

that the county coroner or medical examiner acted in good faith and without knowledge of the objection.

[1975-'76 2nd ex.s. c 60 § 2. Formerly RCW **68.08.305**.]

RCW 68.50.300

Release of information concerning a death. (*Effective until January 1, 2021.*)

- (1) The county coroner, medical examiner, or prosecuting attorney having jurisdiction may in such official's discretion release information concerning a person's death to the media and general public, in order to aid in identifying the deceased, when the identity of the deceased is unknown to the official and when he or she does not know the information to be readily available through other sources.
- (2) The county coroner, medical examiner, or prosecuting attorney may withhold any information which directly or indirectly identifies a decedent until either:
 - (a) A notification period of forty-eight hours has elapsed after identification of the decedent by such official; or
 - (b) The next of kin of the decedent has been notified.

During the forty-eight hour notification period, such official shall make a good faith attempt to locate and notify the next of kin of the decedent.

[**2012 c 117 § 318**; **1981 c 176 § 2**. Formerly RCW **68.08.320**.]

RCW 68.50.300

Release of information concerning a death. (*Effective January 1, 2021.*)

- (1) The county coroner, medical examiner, or prosecuting attorney having jurisdiction may in such official's discretion release information concerning a person's death to the media and general public, in order to aid in identifying the deceased, when the identity of the deceased is unknown to the official and when he or she does not know the information to be readily available through other sources.
- (2)
 - (a) The county coroner, medical examiner, or prosecuting attorney may withhold any information which directly or indirectly identifies a decedent until either:
 - (i) A notification period of forty-eight hours has elapsed after identification of the decedent by such official; or
 - (ii) The next of kin of the decedent has been notified.
 - (b) During the forty-eight hour notification period, such official shall make a good faith attempt to locate and notify the next of kin of the decedent.
- (3) The county coroner, medical examiner, or prosecuting attorney having jurisdiction may release information contained in a report of death, as defined in chapter **70.58A** RCW, to the media and general public.

[**2019 c 148 § 37**; **2012 c 117 § 318**; **1981 c 176 § 2**. Formerly RCW **68.08.320**.]

NOTES:

Effective date—Rule-making authority—2019 c 148: See RCW **70.58A.901** and **70.58A.902**.

RCW 68.50.310

Dental identification system established—Powers and duties.

A dental identification system is established in the identification section of the Washington state patrol. The dental identification system shall act as a repository or computer center or both for dental examination records and it shall be responsible for comparing such records with dental records filed under RCW **68.50.330**. It shall also determine which scoring probabilities are the highest for purposes of identification and shall submit such information to the coroner or medical examiner who prepared and forwarded the dental examination records. Once the dental identification system is established, operating funds shall come from the state general fund.

[**1987 c 331 § 65**; **1983 1st ex.s. c 16 § 15**. Formerly RCW **68.08.350**.]

NOTES:

Effective date—1983 1st ex.s. c 16: See RCW **43.103.901**.

RCW 68.50.320

Procedures for investigating missing persons—Availability of files.

When a person reported missing has not been found within thirty days of the report, or at any time the investigating agency suspects criminal activity to be the basis of the victim being missing, the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority initiating and conducting the investigation for the missing person shall: (1) File a missing person's report with the Washington state patrol missing and unidentified persons unit; (2) initiate the collection of DNA samples from the known missing person and their family members for nuclear and mitochondrial DNA testing along with the necessary consent forms; (3) ask the missing person's family or next of kin to give written consent to contact the dentist or dentists of the missing person and request the person's dental records; and (4) enter the case into the national crime information center system through the Washington state patrol electronic database.

The missing person's dentist or dentists shall provide diagnostic quality copies of the missing person's dental records or original dental records to the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority, when presented with the written consent from the missing person's family or next of kin or with a statement from the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority that the missing person's family or next of

kin could not be located in the exercise of due diligence or that the missing person's family or next of kin refuse to consent to the release of the missing person's dental records and there is reason to believe that the missing person's family or next of kin may have been involved in the missing person's disappearance.

As soon as possible after collecting the DNA samples, the sheriff, chief of police, or other law enforcement authority shall submit the DNA samples to the appropriate laboratory. Dental records shall be submitted as soon as possible to the Washington state patrol missing and unidentified persons unit.

The descriptive information from missing person's reports and dental data submitted to the Washington state patrol missing and unidentified persons unit shall be recorded and maintained by the Washington state patrol missing and unidentified persons unit in the applicable dedicated missing person's databases.

When a person reported missing has been found, the sheriff, chief of police, coroner or medical examiner, or other law enforcement authority shall report such information to the Washington state patrol.

The dental identification system shall maintain a file of information regarding persons reported to it as missing. The file shall contain the information referred to in this section and such other information as the Washington state patrol finds relevant to assist in the location of a missing person.

The files of the dental identification system shall, upon request, be made available to law enforcement agencies attempting to locate missing persons.

[**2020 c 45 § 2**; **2007 c 10 § 5**. Prior: **2006 c 235 § 4**; **2006 c 102 § 6**; **2001 c 223 § 1**; **1984 c 17 § 18**; **1983 1st ex.s. c 16 § 16**. Formerly RCW **68.08.355**.]

NOTES:

Findings—Intent—2020 c 45: "The legislature finds that a recent search of available missing and unidentified persons data for Washington state returned one thousand nine hundred twenty-six pending missing persons cases and one hundred seventy-two records of full or partial unidentified remains throughout the state. Every one of these individuals is someone's family member or loved one.

The legislature further finds that more can be done to reduce the number of missing and unidentified Washingtonians through the utilization of national resources. The national missing and unidentified persons system is a publicly searchable resource developed by the national institute of justice that contains databases of missing persons and unidentified persons cases from across the country. Cases entered into these databases are verified with local authorities and are automatically searched against one another. The national missing and unidentified persons system also has the ability to compile potentially identifiable information and available biometric data, such as DNA, including family reference samples, dental records, and fingerprints. Participation in the national missing and unidentified persons system is free, and biometric sample kits are funded through the national missing and unidentified persons system, alleviating the burden on contributing local governments. At the close of 2019, the national missing and unidentified persons system databases included nearly seventeen thousand published outstanding missing persons cases, and over thirteen thousand published unidentified persons cases. In addition, over nineteen thousand missing persons cases and over four thousand unidentified persons cases that were included in the national missing and unidentified persons system have been resolved.

The legislature recognizes that participating in this centralized and nationally based system is to the advantage of the citizens of the state, and intends to establish a system of consistent statewide participation in order to achieve its full benefit." [**2020 c 45 § 1.**]

Short title—2020 c 45: "This act may be known and cited as Cody's law." [**2020 c 45 § 5.**]

Intent—2007 c 10: See note following RCW **43.103.110.**

Purpose—Effective date—2006 c 235: See notes following RCW **70.02.050.**

Finding—Intent—2006 c 102: See note following RCW **36.28A.100.**

Effective date—1983 1st ex.s. c 16: See RCW **43.103.901.**

*Missing children clearinghouse and hotline: Chapter **13.60** RCW.*

RCW 68.50.330

Identification of body or human remains by dental examination—Comparison of dental examination records with dental records of dental identification system.

If the county coroner or county medical examiner investigating a death is unable to establish the identity of a body or human remains by visual means, fingerprints, or other identifying data, he or she shall have a qualified dentist, as determined by the county coroner or county medical examiner, carry out a dental examination of the body or human remains. If the county coroner or county medical examiner with the aid of the dental examination and other identifying findings is still unable to establish the identity of the body or human remains, he or she shall prepare and forward such dental examination records within thirty days of the date the body or human remains were found to the dental identification system of the state patrol identification and criminal history section on forms supplied by the state patrol for such purposes.

The dental identification system shall act as a repository or computer center or both with respect to such dental examination records. It shall compare such dental examination records with dental records filed with it and shall determine which scoring probabilities are the highest for the purposes of identification. It shall then submit such information to the county coroner or county medical examiner who prepared and forwarded the dental examination records.

If the body or human remains are still unidentified thirty days after discovery, the county coroner or county medical examiner investigating the death must, as soon as practicable, submit information regarding the body or remains to the national missing and unidentified persons system created by the United States department of justice's national institute of justice. Information submitted to the national missing and unidentified persons system must include, to the extent information is available, a detailed personal description, DNA information, copies of fingerprints on standardized eight inch by eight inch fingerprint cards or the equivalent digital image, forensic dental

examination records, and other identifying data, including date and place of death. If the identity of the body or human remains is later established, the county coroner or county medical examiner must notify the national missing and unidentified persons system within forty-eight hours.

[**2020 c 45 § 3**; **2001 c 172 § 1**; **1984 c 17 § 19**; **1983 1st ex.s. c 16 § 17**. Formerly RCW **68.08.360**.]

NOTES:

Findings—Intent—Short title—2020 c 45: See notes following RCW **68.50.320**.

Effective date—1983 1st ex.s. c 16: See RCW **43.103.901**.

RCW 68.50.645

Skeletal human remains—Duty to notify—Ground disturbing activities—Coroner determination—Definitions.

- (1) It is the duty of every person who knows of the existence and location of skeletal human remains to notify the coroner and local law enforcement in the most expeditious manner possible, unless such person has good reason to believe that such notice has already been given. Any person knowing of the existence of skeletal human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice to the coroner and local law enforcement, is guilty of a misdemeanor.
- (2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:
 - (a) Immediately cease any activity which may cause further disturbance;
 - (b) Make a reasonable effort to protect the area from further disturbance;
 - (c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and
 - (d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:
 - (i) The finding of the remains was based on inadvertent discovery;
 - (ii) The requirements of the subsection are otherwise met; and
 - (iii) The person is otherwise in compliance with applicable law.
- (3) The coroner must make a determination of whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such human remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.
 - (a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that

remains are nonforensic does not create a presumption of removal or nonremoval.

- (b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of such nonforensic skeletal human remains does not create a presumption that the remains are Indian.
 - (c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of nonforensic remains. If the remains are determined to be Indian, the department must notify all affected Indian tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.
 - (d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.
- (4) For the purposes of this section:
- (a) "Affected tribes" are:
 - (i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;
 - (ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and
 - (iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.
 - (b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW **68.50.010**.
 - (c) "Inadvertent discovery" has the same meaning as used in RCW **27.44.040**.
- (5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe.

[**2008 c 275 § 1.**]

NOTES:

Reporting requirements—2008 c 275: "The department of archaeology and historic preservation must communicate with the appropriate committees of the legislature by November 15, 2009, and biennially thereafter, regarding the numbers of inadvertent discoveries of skeletal human remains and other associated activities pursuant to this act." [**2008 c 275 § 8.**]

RCW 68.50.900

Effective date—1987 c 331.

See RCW 68.05.900.

RCW 68.50.901

Application—1993 c 228.

RCW * 68.50.520 through ** 68.50.630 and 68.50.901 through 68.50.904 apply to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to making an anatomical gift before, on, or after July 25, 1993.

[1993 c 228 § 12.]

NOTES:

Reviser's note: *(1) RCW 68.50.520 through 68.50.620 were repealed by 2008 c 139 § 31.

** (2) RCW 68.50.630 was repealed by 2002 c 45 § 1.

RCW 68.50.902

Application—Construction—1993 c 228.

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

[1993 c 228 § 13.]

RCW 68.50.903

Severability—1993 c 228.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1993 c 228 § 14.]

RCW 68.50.904

Short title—1993 c 228.

RCW * **68.50.520** through ** **68.50.630** and **68.50.901** through **68.50.903** may be cited as the "uniform anatomical gift act."

[**1993 c 228 § 16.**]

NOTES:

Reviser's note: *(1) RCW **68.50.520** through **68.50.620** were repealed by **2008 c 139 § 31.**

** (2) RCW **68.50.630** was repealed by **2002 c 45 § 1.**

Chapter 68.60 RCW

ABANDONED AND HISTORIC CEMETERIES AND HISTORIC GRAVES

Sections

- [68.60.010](#) Definitions.
 - [68.60.020](#) Dedication.
 - [68.60.030](#) Preservation and maintenance corporations—Authorization of other corporations to restore, maintain, and protect abandoned cemeteries.
 - [68.60.040](#) Protection of cemeteries—Penalties.
 - [68.60.050](#) Protection of historic graves—Penalty.
 - [68.60.055](#) Skeletal human remains—Duty to notify—Ground disturbing activities—Coroner determination—Definitions.
 - [68.60.060](#) Violations—Civil liability.
 - [68.60.070](#) Abandoned cemetery burials—Records—Endowment care funds.
 - [68.60.080](#) Abandoned cemetery—Lawful entry purposes.
-

RCW [68.60.010](#)

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Abandoned cemetery" means a burial ground of the human dead:
 - (a) For which the county assessor can find no record of an owner;
 - (b) Where the last known owner is deceased and lawful conveyance of the title has not been made; or
 - (c) In which the cemetery company, cemetery association, corporation, or other organization that formed for the purposes of burying the human dead:
 - (i) Has disbanded, has been administratively dissolved by the secretary of state, or has otherwise ceased to exist, and for which title has not been conveyed; or
 - (ii) No longer has a valid certificate of authority as determined by the funeral and cemetery board.
- (2) "Cemetery" has the same meaning as provided in RCW [68.04.040](#).
- (3) "Historic grave" means a grave or graves that were placed outside a cemetery dedicated pursuant to this chapter and to chapter [68.24](#) RCW, prior to June 7, 1990, except Indian graves and burial cairns protected under chapter [27.44](#) RCW.
- (4) "Historical cemetery" means any burial site or grounds which contain within them human remains buried prior to November 11, 1889; except that (a) cemeteries holding a valid certificate of authority to operate granted under RCW [68.05.115](#) and [68.05.215](#), (b) cemeteries owned or operated by any

recognized religious denomination that qualifies for an exemption from real estate taxation under RCW [84.36.020](#) on any of its churches or the ground upon which any of its churches are or will be built, and (c) cemeteries controlled or operated by a coroner, county, city, town, or cemetery district shall not be considered historical cemeteries.

[[2017 c 208 § 1](#); [1990 c 92 § 1](#).]

NOTES:

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW [1.08.015](#)(2)(k).

RCW [68.60.020](#)

Dedication.

Any cemetery, abandoned cemetery, historical cemetery, or historic grave that has not been dedicated pursuant to RCW [68.24.030](#) and [68.24.040](#) shall be considered permanently dedicated and subject to RCW [68.24.070](#). Removal of dedication may only be made pursuant to RCW [68.24.090](#) and [68.24.100](#).

[[1999 c 367 § 3](#); [1990 c 92 § 2](#).]

RCW [68.60.030](#)

Preservation and maintenance corporations—Authorization of other corporations to restore, maintain, and protect abandoned cemeteries.

(1)

- (a) The department of archaeology and historic preservation may grant, by nontransferable certificate, the authority to maintain and protect an abandoned cemetery upon application made by a state or local governmental organization, such as a city or county, or by a preservation organization that has been incorporated for the purpose of restoring, maintaining, and protecting an abandoned cemetery. Such authority is limited to the care, maintenance, restoration, protection, and historical preservation of the abandoned cemetery, and does not include authority to make burials. In order to activate a historical cemetery for burials, an applicant must apply for a certificate of authority to operate a cemetery from the funeral and cemetery board.
- (b) Those organizations that are granted authority to maintain and protect an abandoned cemetery are entitled to hold and possess burial records, maps, and other historical documents as may exist. Organizations that are granted authority to maintain and protect an abandoned cemetery are not liable to those claiming burial rights, ancestral ownership, or to any other

person or organization alleging to have control by any form of conveyance not previously recorded at the county auditor's office within the county in which the abandoned cemetery exists. Such organizations are not liable for any reasonable alterations made during restoration work on memorials, roadways, walkways, features, plantings, or any other detail of the abandoned cemetery.

- (c) Should the maintenance and preservation corporation be dissolved, the department of archaeology and historic preservation shall revoke the certificate of authority.
 - (d) Maintenance and preservation corporations that are granted authority to maintain and protect an abandoned cemetery may establish care funds.
- (2) Except as provided in subsection (1) of this section, the department of archaeology and historic preservation may, in its sole discretion, authorize any Washington nonprofit corporation that is not expressly incorporated for the purpose of restoring, maintaining, and protecting an abandoned cemetery, to restore, maintain, and protect one or more abandoned cemeteries. The authorization may include the right of access to any burial records, maps, and other historical documents, but may not include the right to be the permanent custodian of original records, maps, or documents. This authorization must be granted by a nontransferable certificate of authority. Any nonprofit corporation authorized and acting under this subsection is immune from liability to the same extent as if it were a preservation organization holding a certificate of authority under subsection (1) of this section.
- (3) The department of archaeology and historic preservation must establish standards and guidelines for granting certificates of authority under subsections (1) and (2) of this section to assure that any restoration, maintenance, and protection activities authorized under this subsection are conducted and supervised in an appropriate manner.

[[2019 c 129 § 2](#); [2009 c 102 § 21](#); [2005 c 365 § 150](#); [1995 c 399 § 168](#); [1993 c 67 § 1](#); [1990 c 92 § 3](#).]

NOTES:

Effective date—2019 c 129: See note following RCW [68.60.080](#).

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW [18.39.810](#).

[RCW 68.60.040](#)

Protection of cemeteries—Penalties.

- (1) Every person who in a cemetery unlawfully or without right willfully destroys, cuts, mutilates, effaces, or otherwise injures, tears down or removes, any tomb, plot, monument, memorial, or marker in a cemetery, or any gate, door, fence, wall,

- post, or railing, or any enclosure for the protection of a cemetery or any property in a cemetery is guilty of a class C felony punishable under chapter [9A.20](#) RCW.
- (2) Every person who in a cemetery unlawfully or without right willfully destroys, cuts, breaks, removes, or injures any building, statuary, ornamentation, tree, shrub, flower, or plant within the limits of a cemetery is guilty of a gross misdemeanor punishable under chapter [9A.20](#) RCW.
- (3) Every person who in a cemetery unlawfully or without right willfully opens a grave; removes personal effects of the decedent; removes all or portions of human remains; removes or damages caskets, surrounds, outer burial containers, or any other device used in making the original burial; transports unlawfully removed human remains from the cemetery; or knowingly receives unlawfully removed human remains from the cemetery is guilty of a class C felony punishable under chapter [9A.20](#) RCW.

[[1990 c 92 § 4.](#)]

RCW [68.60.050](#)

Protection of historic graves—Penalty.

- (1) Any person who knowingly removes, mutilates, defaces, injures, or destroys any historic grave shall be guilty of a class C felony punishable under chapter [9A.20](#) RCW. Persons disturbing historic graves through inadvertence, including disturbance through construction, shall reinter the human remains under the supervision of the department of archaeology and historic preservation. Expenses to reinter such human remains are to be provided by the department of archaeology and historic preservation to the extent that funds for this purpose are appropriated by the legislature.
- (2) This section does not apply to actions taken in the performance of official law enforcement duties.
- (3) It shall be a complete defense in a prosecution under subsection (1) of this section if the defendant can prove by a preponderance of evidence that the alleged acts were accidental or inadvertent and that reasonable efforts were made to preserve the remains accidentally disturbed or discovered, and that the accidental discovery or disturbance was properly reported.

[[2009 c 102 § 22](#); [1999 c 67 § 1](#); [1989 c 44 § 5](#). Formerly RCW [68.05.420](#).]

NOTES:

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW [18.39.810](#).

Intent—1989 c 44: See RCW [27.44.030](#).

Liberal construction—1989 c 44: See RCW [27.44.901](#).

RCW 68.60.055

Skeletal human remains—Duty to notify—Ground disturbing activities—Coroner determination—Definitions.

- (1) Any person who discovers skeletal human remains shall notify the coroner and local law enforcement in the most expeditious manner possible. Any person knowing of the existence of skeletal human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice thereof is guilty of a misdemeanor.
- (2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:
 - (a) Immediately cease any activity which may cause further disturbance;
 - (b) Make a reasonable effort to protect the area from further disturbance;
 - (c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and
 - (d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:
 - (i) The finding of the remains was based on inadvertent discovery;
 - (ii) The requirements of the subsection are otherwise met; and
 - (iii) The person is otherwise in compliance with applicable law.
- (3) The coroner must make a determination whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.
 - (a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.
 - (b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of such nonforensic skeletal human remains does not create a presumption that the remains are Indian.
 - (c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of such nonforensic remains. If the remains are

determined to be Indian, the department must notify all affected Indian tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are:

(i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;

(ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and

(iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW [68.50.010](#).

(c) "Inadvertent discovery" has the same meaning as used in RCW [27.44.040](#).

(5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe.

[[2008 c 275 § 3](#).]

NOTES:

Reporting requirements—2008 c 275: See note following RCW [68.50.645](#).

RCW [68.60.060](#)

Violations—Civil liability.

Any person who violates any provision of this chapter is liable in a civil action by and in the name of the department of archaeology and historic preservation to pay all damages occasioned by their unlawful acts. The sum recovered shall be applied in payment for the repair and restoration of the property injured or destroyed and to the care fund if one is established.

[[2009 c 102 § 23](#); [1990 c 92 § 5](#).]

NOTES:

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW [18.39.810](#).

RCW [68.60.070](#)

Abandoned cemetery burials—Records—Endowment care funds.

- (1)
 - (a) The funeral and cemetery board must consult with the department of archaeology and historic preservation to promulgate rules in order to allow for burials in abandoned cemeteries.
 - (b) The landowner of an abandoned cemetery must allow for burials in accordance with rules promulgated by the funeral and cemetery board.
- (2) Any records, maps, or other documents associated with an abandoned cemetery must be transferred to the state archives at the time the cemetery becomes an abandoned cemetery.
- (3) Any endowment care funds held by the cemetery authority at the time such cemetery becomes an abandoned cemetery must be transferred to the department of archaeology and historic preservation.

[[2017 c 208 § 2.](#)]

RCW [68.60.080](#)

Abandoned cemetery—Lawful entry purposes.

It is lawful to enter an abandoned cemetery for purposes of:

- (1) Burials pursuant to RCW [68.60.070](#) and associated rules;
- (2) Care and maintenance activities authorized under RCW [68.60.030](#); and
- (3) Visitation of graves.

[[2019 c 129 § 1.](#)]

NOTES:

Effective date—2019 c 129: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 24, 2019]." [[2019 c 129 § 3.](#)]

Archaeology Code Comparisons Summary

Counties

No Archaeological Surveys Required	Surveys Required for known archaeological resources	Surveys Required - Other Specified Areas	Survey required using DAHP within Shorelines	Surveys required, DAHP model
Asotin	Adams	Clallam	Island	
Benton	Columbia	Clark	Whitman	
Chelan	Ferry	Klickitat	Kitsap?	
Cowlitz	Jefferson	Pacific		
Douglas	King	Pend Oreille		
Franklin	Mason	Skamania		
Garfield	Pierce	Thurston		
Grant	San Juan	Yakima		
Grays Harbor	Whatcom			
Kittitas				
Lewis				
Lincoln				
Okanogan				
Skagit				
Spokane				
Stevens				
Wahkiakum				
Walla Walla				

Counties

No Archaeological Surveys Required	Surveys Required for known archaeological resources	Surveys Required - Other Specified Areas	Survey required using DAHP within Shorelines	Surveys required, DAHP model
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Certified Local Government Cities

No Archaeological Surveys Required	Surveys Required for known archaeological resources	Surveys Required - Other Specified Areas	Survey required using DAHP within Shorelines	Surveys required, DAHP model
Anacortes	Aberdeen	Shelton	Bainbridge Island	Vancouver
Centralia	Bellingham	Tacoma	Millwood	
Chehalis	Bothell		Pullman	
Cheney	Burlington		Yakima	
Cle Elum	Friday Harbor			
Colfax	Hoquiam			
College Place	Kennewick			
Colville	Pasco			
Concrete	Seattle			
Dayton				
Edmonds				
Ellensburg				
Everett				
Gig Harbor				
Harrington				
Kettle Falls				
Lacey				
Lakewood				
Langely				
Longview				
Lynden				
Oak Harbor				
Olympia				
Pomeroy				
Port Townsend				
Puyallup				
Ritzville				
Roslyn				
Steilacoom				
Tumwater				

Archaeology Code Comparisons

10/02/2020

Certified Local Government Cities

No Archaeological Surveys Required	Surveys Required for known archaeological resources	Surveys Required - Other Specified Areas	Survey required using DAHP within Shorelines	Surveys required, DAHP model
Walla Walla				
Waterville				
Wenatchee				
Yelm				

Counties Archaeology Code

County	Certified Local Government Y/N	Archaeology Code Y/N	Code reference	Is this in the SMP? Y/N	NOTES
Adams	N	Y	18.08.510 Archaeological and Historic Resources	Y	All permits here are reviewed for proximity to KNOWN archaeological resources
Benton	N	N			
Chelan	N	N			
Clallam	N	Y	31.02.330 - Natural, Historical and Cultural Resources Issues	N	Does not cover surveying
Clark	Y	Y	40.240.820 - General Management Area Cultural Resource Review Criteria	N	This is about the Columbia River Gorge Scenic Area
Garfield	N	N			
Kittitas	N	N			
Lincoln	N	-			
Mason	Y	Y	17.50 Shoreline Master Program	Y	Should have archaeologist inventory of potentially valuable archaeological data used to determine if sites need to be surveyed before permits issued
Pacific	N	Y	Ordinance 184 Zoning, Section 19 Wind Energy Systems (WES)	N	This only applies to energy permits?
Skamania	N	Y	22.30 Cultural Resource Protection Special Management Area	N	
Spokane	Y	N	1.48 - Historic Preservation	no	HP ordinance doesn't cover archaeological surveys
Stevens	N	-			

Archeology Code Project

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Counties Archaeology Code

County	Certified Local Government Y/N	Archaeology Code Y/N	Code reference	Is this in the SMP? Y/N	NOTES
Walla Walla	N	N			Has a coordination for state/fed action.

Cities Archaeology Code

City	Certified Local Government Y/N	Archaeology Code Y/N	Code reference	Is this in the SMP? Y/N	NOTES
Aberdeen	Y	Y	14.50.410	Y	All permits here are reviewed for proximity to KNOWN archaeological resources
Bainbridge Island	Y	Y	16.12.030 (C)(2) Cultural Resources	Y	All permits here are reviewed for proximity to KNOWN or SUSPECTED archaeological resources. Reviews permits against state predictive model (high probability)
Bellingham	Y	Y	22.08.130 Archaeological and historic resources	Y	All permits here are reviewed for proximity to KNOWN archaeological resources
Bothell	Y	Y	13.09.010 Archaeological and historic resources	Y	All permits here are reviewed for proximity to KNOWN archaeological resources
Burlington	Y	Y	18.14.020 B Archaeological Historical and Cultural Resources	Y	All permits here are reviewed for proximity to KNOWN archaeological resources
College Place	Y	Y	14.10.040		HP ordinance doesn't cover archaeological surveys
Friday Harbor	Y	Y	19.04.300E Archaeological Historic Cultural Sites	Y	All permits here are reviewed for proximity to KNOWN archaeological resources
Hoquiam	Y	Y	11.05.310 Archaeological and historic resources	Y	All permits here are reviewed for proximity to KNOWN archaeological resources
Kennewick	Y	Y	18.68.110 Archaeological and Historic Resources	Y	All permits here are reviewed for proximity to KNOWN archaeological resources
Lacey	Y	Y	16.53	N	HP ordinance doesn't cover archaeological surveys
Millwood	Y	Y	18.14.020 (H)	Y	All permits here are reviewed for proximity to KNOWN or SUSPECTED archaeological resources
Olympia	Y	Y	18.12.120 Cultural Resources	N	HP ordinance doesn't cover archaeological surveys
Pasco	Y	Y	29.15.030	Y	All permits here are reviewed for proximity to KNOWN archaeological resources

Cities Archaeology Code

City	Certified Local Government Y/N	Archaeology Code Y/N	Code reference	Is this in the SMP? Y/N	NOTES
Pullman	Y	Y	16.55.290 Archaeological, Historical, and Cultural Resources	Y	All permits here are reviewed for proximity to KNOWN or SUSPECTED archaeological resources
Seattle	Y	Y	23.30A.154, 25.05.675	Y	Has both SMP policies and SEPA policies
Shelton	Y	Y	21.68.060	N	In Forest Practice Approvals
Spokane	Y	Y	17E.060.160	Y	All permits here are reviewed for proximity to KNOWN archaeological resources
Steilacoom	Y	N			HP ordinance doesn't cover archaeological surveys
Tacoma	Y	Y	13.12.570	N	
Tumwater	Y	Y	18.40.065 Inadvertant discovery of archaeological and cultural resources	N	HP ordinance doesn't cover archaeological surveys
Vancouver	Y	Y	20.710 Archaeological Resource Protection	N	
Walla Walla	Y	N			HP ordinance doesn't cover archaeological surveys
Waterville	Y	N			HP ordinance doesn't cover archaeological surveys
Wenatchee	Y	N			HP ordinance doesn't cover archaeological surveys
Yakima	Y	Y	17.05.010 Archaeological and Historic Resources	Y	All permits here are reviewed for proximity to KNOWN or SUSPECTED archaeological resources (specifically references DAHP predictive model)
Yelm	Y	N			HP ordinance doesn't cover archaeological surveys

Clallam County

31.02.330 Historic and cultural resources.

- (1) All jurisdictions should work individually and cooperatively to identify, record, study and encourage the preservation, maintenance and use of lands, sites, and structures that have historical and archaeological significance. The early identification and resolution of conflicts between preservation of historical or archaeological resources and competing land uses should be promoted and facilitated.
- (2) Preserve, restore, and maintain significant historical and cultural resources, including visual quality, along the County's scenic highways and roads.
 - (a) Avoid, minimize, or mitigate impacts of transportation projects on significant historical, cultural and archaeological resources.
 - (b) Cooperatively plan, implement, and maintain corridor management plans for all proposed and existing Washington State Scenic and Recreational Highways (Hwy. 101 and Hwy. 112). Identify the long-term landscape character desired for scenic and recreational highways and their related cultural resources, and implement landscape maintenance practices appropriate to ensure the resources' lasting character.
 - (c) Discourage additional commercial development parallel (immediately adjacent) to scenic and recreational highways where it has a negative impact on the scenic character of the route.
- (3) Clallam County shall recognize tribal nations in adoption of the Comprehensive Plan and development regulations. Affected tribal nations shall be notified of development applications prior to action and be given the opportunity to comment on the project's impact to tribal rights, as required by the State Environmental Policy Act.

Clark County

40.240.820 General Management Area Cultural Resource Review Criteria

A. General Provisions for Implementing the Cultural Resources Protection Process.

1. All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in [36](#) CFR Part [61](#) and Guidelines for Evaluating and Documenting Traditional Cultural Properties (Parker and King, no date).
2. Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any party who submits written comments on the proposed use related to such surveys, assessments, plans and evaluations. Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as an historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.
3. Reconnaissance and Historic Surveys and Survey Reports.
 - a. Reconnaissance Survey Requirements and Exceptions.
 - (1) Each proposed use or element of a proposed use within an application shall be evaluated independently to determine whether a reconnaissance survey is required; for example, an application that proposes a land division and a new dwelling would require a reconnaissance survey if a survey would be required for the dwelling.
 - (2) A reconnaissance survey shall be required for all proposed uses within five hundred (500) feet of a known cultural resource, including those uses listed as exceptions in Section [40.240.820\(A\)\(3\)\(a\)\(3\)](#).
 - (3) A reconnaissance survey shall be required for all proposed uses, except:
 - (a) The modification, expansion, replacement, or reconstruction of existing buildings and structures.
 - (b) Proposed uses that would not disturb the ground, including land divisions and lot line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.

- (c) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved. The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.
- (d) Proposed uses that occur on sites that have been disturbed by human activities; provided, that the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.
- (e) Proposed uses that would occur on sites that have been adequately surveyed in the past. The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.
- (f) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:
 - (i) Residential development that involves two (2) or more new dwellings for the same project applicant.
 - (ii) Recreation facilities that contain parking areas for more than ten (10) cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.
 - (iii) Public transportation facilities that are outside improved rights-of-way.
 - (iv) Electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater.
 - (v) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

- (vi) Areas that have a low probability of containing cultural resources shall be identified by the Columbia River Gorge Commission using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.
- (4) The Gorge Commission may choose to conduct a reconnaissance survey for proposed uses listed in the exceptions if, in its professional judgment, a reconnaissance survey may be necessary to ensure protection of cultural resources.
- b. A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are fifty (50) years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are fifty (50) years old or older.
- c. The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the GMA. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant. For this section, large-scale uses include residential development involving two (2) or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are thirty-three (33) kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.
- d. Reconnaissance Surveys for Small-Scale Uses. Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:
 - (1) A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.
 - (2) Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.
- e. Reconnaissance Survey Reports for Small-Scale Uses. The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:
 - (1) A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the reconnaissance survey.

- (2) A description of any cultural resources that were discovered in the project area, including a written description and photographs.
- (3) A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

f. Reconnaissance Surveys for Large-Scale Uses.

- (1) Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.
- (2) Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:
 - (a) Archival research shall be performed before any fieldwork. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.
 - (b) Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.
 - (c) Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.
 - (d) Archaeological site inventory forms shall be submitted to the State Historic Preservation Officer whenever cultural resources are discovered.

g. Reconnaissance Survey Reports for Large-Scale Uses. The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

- (1) A description of the proposed use, including drawings and maps.
- (2) A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.
- (3) A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.
- (4) A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas

surveyed, and the location of subsurface probes. The map shall be prepared at a scale of one (1) inch equals one hundred (100) feet (1:1,200), or a scale providing greater detail.

- (5) An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of one (1) inch equals one hundred (100) feet (1:1,200), or a scale providing greater detail.
- (6) A summary of all written comments submitted by Indian tribal governments and other interested parties.
- (7) A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.

h. Historic Surveys and Reports.

- (1) Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.
 - (2) Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.
 - (3) The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.
4. The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant, except for resources discovered during construction. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.
5. Cultural resources are significant if one (1) of the following criteria is satisfied:
- a. The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" ([36 CFR 60.4](#)).
 - b. The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.

6. The Gorge Commission shall establish a Cultural Advisory Committee (CAC). The CAC shall comprise cultural resource professionals, interested individuals, and at least one (1) representative from each of the four (4) Indian tribes. If a project applicant's and Indian tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and Indian tribal government's substantiated concerns. The CAC will submit a recommendation to the responsible official as to whether affected cultural resources are significant.

(Amended: Ord. 2018-03-04)

B. Cultural Resource Reconnaissance and Historic Surveys.

1. Consultation and Ethnographic Research.

a. When written comments are submitted to the responsible official within the comment period provided for in Section [40.240.050\(E\)](#), the project applicant shall offer to meet with the commenting parties within ten (10) calendar days. The ten (10) day consultation period may be extended upon agreement between the project applicant and the commenting parties. Consultation meetings should provide an opportunity for commenting parties to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed. All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

b. A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if parties commenting on the application submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate. All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

2. Notice of Survey Results.

a. The responsible official shall submit a copy of all cultural resource survey reports to the SHPO and the Indian tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

b. The SHPO and the tribes shall have thirty (30) calendar days from the date a survey report is mailed to submit written comments to the responsible

official. The responsible official shall record and address all written comments in the development review order.

3. Conclusion of the Cultural Resource Protection Process.

a. The responsible official shall make a final decision on whether the proposed use would be consistent with this section. If the final decision contradicts the comments submitted by the SHPO, the responsible official shall justify how it reached an opposing conclusion.

b. The cultural resource protection process may conclude when one (1) of the following conditions exists:

(1) The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by parties commenting on the application within twenty-one (21) calendar days of the date that a notice was mailed.

(2) A reconnaissance survey demonstrates that cultural resources do not exist in the project area and no substantiated concerns were voiced by commenting parties within twenty-one (21) calendar days of the date that a notice was mailed.

(3) The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground disturbing activities shall be prohibited within the buffer zone. Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant easement or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected. An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

c. A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:

(1) The SHPO concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation" ([36 CFR 60.4](#)); or

(2) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the

guidelines and standards in The Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings and The Secretary of the Interior's Standards for Treatment of Historic Properties. The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission. The historic survey and report must demonstrate that these guidelines have been clearly and absolutely satisfied. If the SHPO or the responsible official question whether these guidelines have been satisfied, the project applicant shall conduct an evaluation of significance.

C. Evaluation of Significance.

1. Evaluation Criteria and Information Needs. If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:
 - a. Evaluations of significance shall follow the procedures in How to Apply the National Register Criteria for Evaluation (U.S. Department of the Interior, no date) and Guidelines for Evaluating and Documenting Traditional Cultural Properties (Parker and King, no date). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.
 - b. To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.
 - c. The project applicant shall contact Indian tribal governments and commenting parties as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.
 - d. The evaluation of significance shall follow the principles, guidelines, and report format recommended by Washington Office of Archaeology and Historic Preservation (Washington SHPO, no date). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.
 - e. All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with Indian tribal governments and other commenting parties shall be presented. All comments, recommendations, and correspondence from Indian tribal governments and commenting parties shall be appended to the evaluation of significance.

2. Notice of Evaluation Results.

- a. If the evaluation of significance demonstrates that the cultural resources are not significant, the responsible official shall submit a copy of the evaluation of significance to the SHPO and the Indian tribal governments.
- b. The SHPO, Indian tribal governments, and commenting parties shall have thirty (30) calendar days from the date the evaluation of significance is mailed to submit written comments to the responsible official. The responsible official shall record and address all written comments in the development review order.

3. Cultural Resources are Culturally Significant.

- a. If an Indian tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make an independent review of the applications evaluation and the Indian tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.
- b. The Indian tribal government shall substantiate its concerns in a written report. The report shall be submitted to the responsible official, CAC, and the project applicant within fifteen (15) calendar days from the date the evaluation of significance is mailed. The CAC must submit its recommendation to the responsible official within thirty (30) calendar days from the date the evaluation of significance is mailed.

4. Conclusion of the Cultural Resource Protection Process.

- a. The responsible official shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the SHPO or CAC, the responsible official shall justify how an opposing conclusion was reached.
- b. The cultural resource protection process may conclude if the affected cultural resources are not significant.
- c. If the project applicant or the responsible official determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

D. Assessment of Effect.

1. Assessment Criteria and Information Needs. If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect.
 - a. The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" ([36 CFR 800.5](#)) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of

significance. All documentation shall follow the requirements listed in [36 CFR 800.11](#).

- (1) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant ([36 CFR 800.5](#)).
 - (2) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association ([36 CFR 800.5](#)). Adverse effects on cultural resources include, but are not limited to:
 - (a) Physical destruction, damage, or alteration of all or part of the cultural resource.
 - (b) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.
 - (c) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.
 - (d) Neglect of a significant cultural resource resulting in its deterioration or destruction, except as described in [36 CFR 800.5](#).
- b. The assessment of effect shall be prepared in consultation with Indian tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by Indian tribal governments and interested persons shall be recorded and addressed in the assessment.
- c. The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:
- (1) The cultural resources are of value only for their potential contribution to archaeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines.
 - (2) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with The Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings and The Secretary of the Interior's Standards for Treatment of Historic Properties.

2. Notice of Assessment Results.

- a. If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the responsible official shall submit a copy of the assessment to the SHPO and the Indian tribal governments.
- b. The SHPO, Indian tribal governments, and interested persons shall have thirty (30) calendar days from the date the assessment of effect is mailed to submit written comments to the responsible official. The responsible official shall record and address all written comments in the development review order.

3. Conclusion of the Cultural Resource Protection Process.

- a. The responsible official shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the SHPO, the responsible official shall justify how an opposing conclusion was reached.
- b. The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.
- c. A mitigation plan shall be prepared if a project applicant or the responsible official determines that the proposed use would have an adverse effect on significant cultural resources.

(Amended: Ord. 2008-06-02)

E. Mitigation Plans.

1. Mitigation Plan Criteria and Information Needs. Mitigation plans shall be prepared when proposed uses would have an adverse effect on significant cultural resources. The plans shall reduce an adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following guidelines:
 - a. Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including Indian tribal governments, Native Americans, local governments whose jurisdiction encompasses the project area, and the SHPO.
 - b. Avoidance of cultural resources through project design and modification is preferred. Avoidance may be affected by reducing the size, scope, configuration, and density of the proposed use.
 - c. Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative measures include, but are not limited to, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism shall be developed and recorded in county deeds

and records. Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in [36 CFR 800.11](#), including, but not limited to:

- (1) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use.
- (2) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection.
- (3) Documentation of consultation with the SHPO regarding any alternatives or mitigation measures.
- (4) A description of the project applicant's efforts to obtain and consider the views of Indian tribal governments, commenting parties, and the responsible official.
- (5) Copies of any written recommendations submitted to the responsible official or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.

2. Notice of Mitigation Plan Results.

- a. If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the responsible official shall submit a copy of the mitigation plan to the SHPO and the Indian tribal governments.
- b. The SHPO, Indian tribal governments, and commenting parties shall have thirty (30) calendar days from the date the mitigation plan is mailed to submit written comments to the responsible official. The responsible official shall record and address all written comments in the development review order.

3. Conclusion of the Cultural Resource Protection Process.

- a. The responsible official shall make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the comments submitted by the SHPO, the responsible official shall justify how an opposing conclusion was reached.
- b. The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.
- c. The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

(Amended: Ord. 2008-06-02)

F. Cultural Resources Discovered After Construction Begins.

The following procedures shall be put into effect when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the responsible official and the SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

1. **Halt of Construction.** All construction activities within one hundred (100) feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
2. **Notification.** The project applicant shall notify the responsible official and the Gorge Commission within twenty-four (24) hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within twenty-four (24) hours.
3. **Survey and Evaluation.** The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the SHPO. (See Chapter [27.53](#) RCW). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in Sections [40.240.820\(A\)\(3\)\(g\)](#) and [40.240.820\(C\)\(1\)](#). Based on the survey and evaluation report and any written comments, the responsible official shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant. A mitigation plan shall be prepared if the affected cultural resources are significant.
4. **Mitigation Plan.** Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in Section [40.240.820\(E\)\(1\)](#). Construction activities may recommence when the conditions in the mitigation plan have been executed.

G. Discovery of Human Remains.

The following procedures shall be put into effect when human remains are discovered during a cultural resource survey or during construction. "Human remains" means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

1. **Halt of Activities.** All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.
2. **Notification.** Local law enforcement officials, the responsible official, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.
3. **Inspection.** The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic; or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.

4. Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.
5. Treatment. Prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth Chapters [27.44](#) and [68.05](#) RCW if the remains are prehistoric/historic. If the human remains will be re-interred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in Section [40.240.820](#)(E)(1). The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in Section [40.240.820](#)(E)(3) are met and the mitigation plan is executed.

(Amended: Ord. 2006-05-04)

Ferry County

Ordinance 2016-04 Amending Development Regulations Ordinance

SECTION 6.00 HISTORIC ARCHAEOLOGICAL RESOURCES PRESERVATION

SECTION 6.01 GOAL

To avoid the loss of archaeological and historic information.

SECTION 6.02 CLASSIFICATION

The earliest evidence of human history in Ferry County appears at Kettle Falls on the Columbia River, where archaeological sites have yielded dates indicating that native people lived here as long as 9,000 years ago.

Later generations of Indian groups such as the Sanpoil, Lakes, Colville, and Okanogan made this area their home and still do. The Columbia, which forms the county's southern and eastern borders, was vitally important to native people. Before dams were built on the river, the salmon ran up many tributary streams, providing not only food, but a central theme of local culture.

In 1872, a presidential proclamation set aside an area including the present Ferry and Okanogan counties as the Colville Indian Reservation. As gold discoveries became possible, portions of the reservation were opened up, and the county seat of Republic was established in 1896. The town began its career as a gold rush tent camp called "Eureka" and within three years, its post office (called "Republic" after a major local mine) was doing more business than any other eastern Washington city outside of Spokane.

Ferry County officially separated from Stevens County in 1899. And by 1902, the Republic miners were connected with the outside by two railroads. One was a branch of the Great Northern and the other was a local line. It ran 40 miles from Grand Forks, British Columbia, and operated for 20 years under seven or eight different names, providing one of the more colorful chapters of the county's history.

Ferry County's historic and cultural resources include evidence of all these waves of settlement – native peoples, prospectors, homesteaders, railroad builders – and all who came after. It is in the interest of today's residents to preserve that evidence and protect it for future generations.

Ferry County will be using a list of known, recorded archaeological sites and historic archaeological resources in Ferry County as provided by the Department of Archaeology and Historic Preservation (DAHP) to ensure that development activities will not result in the loss of information.

SECTION 6.03 DESIGNATION

Ferry County will try to ensure that archaeological sites and significant historic and archaeological resources are not disturbed or destroyed through any action of the County, or through any action permitted by the County.

All plats, short plats, development permits and building permits issued for development activities shall state that real property located within Ferry County may be subject to state, local and tribal regulations concern

If a check of known site locations shows no recorded sites, a notice shall be attached to the permit stating that "in the event an archaeological object is discovered through ground-disturbing activities, work in that area shall cease and the Ferry County Planning Department and the Department of Archaeology and Historic Preservation shall be notified." At that point a survey may be required. If a check of known site locations and survey results show there is no archaeological site located within the proposed project area, no further action is needed.

If an archaeological site or significant historic archaeological resource is identified in the known site location records or through survey, a protection plan should be developed by the landowner/developer, the affected tribe, an archaeologist, and the DAHP. Such plans shall be forwarded to the County, who may then issue a permit subject to conditions outlined in the protection plan.

Alternatively, the applicant may choose a mitigation alternative to protecting the site. Such alternatives should be appropriate to the nature of the site and proposed activity, but might include one of the following:

- 1) Recording the site with DAHP;
- 2) Reburying human remains, should the site be a grave;
- 3) Burying or plating the site with a permeable surface (asphalt, crushed rock, etc.) to prohibit intentional damage;
- 4) Excavation and recovery of resources in approved manner;
- 5) Avoidance; or
- 6) A combination of the above measures

No permit shall be issued for any disturbance of an identified archaeological site or significant historic archaeological resources without an agreed-upon protection or mitigation plan. An archaeological excavation permit from DAHP may be required to carry out the provision of the protections of the protection or mitigation plan per RCW 27.53.060 and 27.44.020 and WAC 25-48. DAHP will inform on requirements of an excavation permit during the development of the mitigation or protection plan.

The applicant would only be responsible for the cost of the predetermination survey, if required. After notification of the predetermination survey, any interested party must respond within 30 days of notification as to the need of additional surveys. If additional surveys are performed by the interested party, they must be completed not to exceed 6 months.

King County

20.62.150 Historic resources - review process.

- A. King County shall not approve any development proposal or otherwise issue any authorization to alter, demolish, or relocate any historic resource identified in the King County Historic Resource Inventory, pursuant to the requirements of this chapter. The standards contained in K.C.C. chapter 21A.12, Development Standards - Density and Dimensions and K.C.C. chapter 21A.16, Development Standards - Landscaping and Water Use shall be expanded, when necessary, to preserve the aesthetic, visual and historic integrity of the historic resource from the impacts of development on adjacent properties.
- B. Upon receipt of an application for a development proposal located on or adjacent to a historic resource listed in the King County Historic Resource Inventory, the director shall follow the following procedure:
 1. The development proposal application shall be circulated to the King County historic preservation officer for comment on the impact of the project on historic resources and for recommendation on mitigation. This includes all permits for alterations to historic buildings, alteration to landscape elements, new construction on the same or abutting lots, or any other action requiring a permit which might affect the historic character of the resource. Information required for a complete permit application to be circulated to the historic preservation officer shall include:
 - a. a vicinity map;
 - b. a site plan showing the location of all buildings, structures, and landscape features;
 - c. a brief description of the proposed project together with architectural drawings showing the existing condition of all buildings, structures, landscape features and any proposed alteration to them;
 - d. photographs of all buildings, structures, or landscape features on the site; and
 - e. an environmental checklist, except where categorically exempt under King County SEPA guidelines.
 2. Upon request, the historic preservation officer shall provide information about available grant assistance and tax incentives for historic preservation. The officer may also provide the owner, developer, or other interested party with examples of comparable projects where historic resources have been restored or rehabilitated.
 3. In the event of a conflict between the development proposal and preservation of an historic resource, the historic preservation officer shall:
 - a. suggest appropriate alternatives to the owner/developer which achieve the goals of historic preservation;
 - b. recommend approval, or approval with conditions to the director; or
 - c. propose that a resource be nominated for county landmark designation according to procedures established in the landmarks preservation ordinance (K.C.C. 20.62).

4. The director may continue to process the development proposal application, but shall not issue any development permits or issue a SEPA threshold determination until receiving a recommendation from the historic preservation officer. In no event shall review of the proposal by the historic preservation officer delay permit processing beyond any period required by law. Permit applications for changes to landmark properties shall not be considered complete unless accompanied by a certificate of appropriateness pursuant to K.C.C. 20.62.080.
 5. On known archaeological sites, before any disturbance of the site, including, but not limited to test boring, site clearing, construction, grading or revegetation, the State Office of Archaeology and Historic Preservation (OAHP), and the King County historic preservation officer, and appropriate Native American tribal organizations must be notified and state permits obtained, if required by law. The officer may require that a professional archaeological survey be conducted to identify site boundaries, resources and mitigation alternatives prior to any site disturbance and that a technical report be provided to the officer, OAHP and appropriate tribal organizations. The officer may approve, disapprove or require permits conditions, including professional archeological surveys, to mitigate adverse impacts to known archeological sites.
- C. Upon receipt of an application for a development proposal which affects a King County landmark or an historic resource that has received a preliminary determination of significance as defined by K.C.C. 20.62.020V, the application circulated to the King County historic preservation officer shall be deemed an application for a certificate of appropriateness pursuant to K.C.C. 20.62.080 if accompanied by the additional information required to apply for such certificate. (Ord. 18791 § 161, 2018: Ord. 11620 § 12, 1994).

Klickitat County

- **19.02.080 - Husum BZ Planning Area.**

1. Cultural Resources Guidance. The county planning department uses cultural resources guidance to review applications within the Husum BZ Planning Area. The guidance is on file with the planning department.
2. Cultural Resources Surveys. Within the Husum BZ Planning Area, a cultural resources survey may be required before construction commences, within the certain tracts of land alongside the White Salmon River (see paragraph 2(c)). Within these areas, a cultural resources survey is required on properties where land disturbance will occur within five hundred feet of an archaeological site [RCW 27.53.030 (3)] or an historic archaeological resource [RCW 27.53.030 (9)], except the requirement may be waived for above-ground isolates meeting the exception in RCW 27.53.060. The survey shall be of areas of the project site that will be disturbed temporarily or permanently.
 - (a) For purposes of this section, an archaeological site is a geographic area that contains archaeological objects [RCW 27.53.030 (2)] and an historic archaeological resource is one listed in or eligible for listing in the Washington State Register of Historic Places or the National Register of Historic Places, as defined in the National Historic Preservation Act of 1966. (See RCW 27.53.030). All unevaluated historic archaeological resources shall be considered eligible until formally evaluated by the Department of Archaeology and Historic Preservation.
 - (b) To determine whether an archaeological site or a historic archaeological resource is present, the county shall consult the database maintained by the Department of Archaeology and Historic Preservation (DAHP); consult with the Confederated Tribes and Bands of the Yakama Nation; and review applicant submittals describing cultural resources on site. While DAHP makes an effort to maintain an accurate database, a field investigation may be necessary to confirm archaeological site and historic archaeological resources presence.
 - (c) Tracts Survey Requirement Applicable To. See attached diagram [attached to Ordinance No. O011712].
 - (d) The five hundred feet shall be measured from the cultural resource itself (occasionally the DAHP database will note both the resource and a buffer area; the survey requirement is measured from the resource itself). The county may confer with DAHP to confirm exact location.
3. Survey Assistance. The Confederate Tribes and Bands of the Yakama Nation may have resources to assist with cultural resources surveys within the Husum BZ Planning Area. However, independent confirmation of this for any particular proposal is required.

(Ord. No. O011712, 1-17-12)

Skamania County

22.30.010 General provisions for implementing the cultural resource protection process.

- A. All cultural resource information shall remain confidential and exempt from public records requests, according to Section 6(a)(1)(A) of the National Scenic Area Act and RCW [42.17.310\(k\)](#). Federal agency cultural resource information is also confidential and exempt by statute from the Freedom of Information Act under [16 U.S.C. 470hh](#) and [36 CFR 296.18](#).
- B. All cultural resource surveys, evaluations, assessments and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards set out in [36 CFR, Part 61](#) and in Guidelines for Evaluating and Documenting Traditional Cultural Properties (Parker and King, no date).
- C. The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in Section [22.30.080](#) for forest practices and National Forest System lands.
- D. New developments or land uses shall not adversely affect significant cultural resources.
- E. The procedures in Sections [22.30.020](#) through [22.30.070](#) shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.
- F. The procedures in Section [22.30.080](#) and guidelines in [36 CFR 800](#) shall be used by the administrator and federal agencies to evaluate new developments or land uses on federal lands, federally assisted projects, and forest practices.
- G. Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and, if appropriate, any party of record. Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans. If the cultural resources are associated with non-Native Americans, such as a historic house or pioneer campsite, the Indian tribal governments do not have to be consulted.
- H. The responsibility and cost of preparing an evaluation of significance, assessment or effect, or a mitigation plan shall be borne by the project applicant, except for resources discovered during construction and forest practices. The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for resources that are discovered during construction of small-scale and large-scale uses.
- I. Archaeological and Historic Surveys and Survey Reports.
 - 1. Archaeological Survey Requirements and Exceptions.

- a. An archaeological survey shall be required for all proposed uses within five hundred feet of a known cultural resource, including those uses listed as exempt in subsection (I)(1)(b) of this section.
- b. An archaeological survey shall be required for all proposed uses, except the following, unless located within five hundred feet of a known cultural resource:
 - i. The modification, expansion, replacement, or reconstruction of existing buildings and structures.
 - ii. Proposed uses that would not disturb the ground, including land divisions and lot line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.
 - iii. Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved. The Gorge Commission shall review all land use applications and determine if the proposed uses would have a minor ground disturbance.
 - iv. Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.
 - v. Proposed uses that would occur on sites that have been adequately surveyed in the past. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented. The project applicant must demonstrate that the project area has been adequately surveyed.
 - vi. Proposed uses occurring in areas that have a low probability of containing cultural resources. Areas that have a low probability of containing cultural resources shall be identified using the results of archaeological surveys conducted by the Columbia River Gorge Commission, the United States Forest Service, public agencies and private archaeologists. The Gorge Commission, after consultation with the Indian tribes and Washington State Department of Archaeology and Historical Preservation (DAHP), shall prepare and adopt a map showing areas that have a low probability of containing cultural resources. This

map shall be adopted within two hundred days after the Secretary of Agriculture concurs with the management plan. The maps referred to above shall be refined and revised as additional archaeological surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission. The following proposed uses do not qualify for this exemption:

- (A) Residential development that involves two or more new dwellings for the same project applicant.
 - (B) Recreation facilities that contain parking areas for more than ten cars, overnight camping facilities, boat ramps and visitor information and environmental education facilities.
 - (C) Public transportation facilities that are outside improved rights-of-way.
 - (D) Electric facilities, lines, equipment and appurtenances that are thirty-three kilovolts or greater.
 - (E) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment and appurtenances.
- c. A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are fifty years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are fifty years old or older.
- d. The Gorge Commission shall conduct and pay for all archaeological and historic surveys for small-scale uses in the general management area. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Archaeological surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.
- e. Large-scale uses, for the purposes of this chapter, include residential development involving two or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are thirty-three kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.
- f. Archaeological surveys for small-scale uses shall generally include a subsurface survey and subsurface testing. They shall meet the following standards:

- i. A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.
 - ii. Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.
- g. Archaeological survey reports for small-scale uses shall be documented in a confidential report that includes:
 - i. A description of the fieldwork methodology used to identify cultural resources, including a description of the type and extent of the archaeological survey.
 - ii. A description of any cultural resources that were discovered in the project area, including a written description and photographs.
 - iii. A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.
 - iv. All written comments and consultation meeting minutes, if applicable, shall be incorporated into the archaeological survey report.
- h. Archaeological surveys for large-scale uses shall be designed by a qualified professional. They shall meet the following requirements:
 - i. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.
 - ii. Archaeological surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use.
- i. Archival research shall be performed before any field work. Archival research shall include a thorough examination of tax records; historic maps, photographs and drawings; previous archaeological, historic and ethnographic research; cultural resource inventories and records maintained by federal, state and local agencies; and primary historic accounts, such as diaries, journals, letters and newspapers.
- j. Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.
- k. Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.
- l. Archaeological site inventory forms shall be submitted to the Washington State Department of Archeology and Historic Preservation (DAHP) whenever cultural resources are discovered.

- m. Archaeological survey reports for large-scale uses shall be documented in a confidential report that includes:
- i. A description of the proposed use, including drawings and maps.
 - ii. A description of the project area, including soils, vegetation, topography, drainage, past alterations and existing land use.
 - iii. A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.
 - iv. A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of one inch equals one hundred feet (1:1,200) or a scale providing greater detail.
 - v. Copies of all written comments submitted by Indian tribal governments and other interested persons.
 - vi. An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings and a map. The map shall be prepared at a scale of one inch equals one hundred feet (1:1,200) or a scale providing greater detail.
 - vii. A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information, if any, obtained through field surveys.

2. Historic Surveys and Reports.

- a. Historic surveys shall document the location, form, style, integrity and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints and drawings should be used as necessary.
- b. Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.
- c. The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.
- d. Historic surveys shall include copies of all written comments and consultation meeting minutes submitted by Indian tribal governments and other parties of record, if applicable.

e. Cultural resources are significant if one of the following criteria is satisfied:

- i. The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places. The criteria for evaluation of the eligibility of cultural resources for the National Register of Historic Places appear in the National Register criteria for evaluation ([36 CFR 60.4](#)).
- ii. The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.

3. Cultural Advisory Committee (CAC).

- a. The Columbia River Gorge Commission shall establish a cultural advisory committee (CAC). The CAC shall comprise cultural resource professionals, interested individuals, and at least one representative from each of the four Indian tribal governments.
- b. If a project applicant's and an Indian tribal government's evaluations of significance contradict, then the CAC shall review the applicant's evaluation and the Indian tribal government's substantiated concerns. The Indian tribal government shall substantiate its concerns in a written report.
- c. Within thirty days of delivery by the administrator of a contested evaluation of significance to the CAC, the CAC shall submit a written recommendation to the administrator as to whether affected cultural resources are significant and its reasons for making a determination of significance. If the CAC fails to submit a written recommendation within the said thirty days, then the administrator shall determine that the CAC concurs in the applicant's evaluation of significance. (Ord. 2018-04 (Exh. A), 4-17-18; Ord. 2008-06 (part); Ord. 2006-11 (part); Ord. 2005-07 (part))

22.30.060 Cultural resources discovered after construction begins.

The following procedures shall be effected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the administrator and DAHP. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

- A. Halt of Construction. All construction activities within one hundred feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.
- B. Notification. The project applicant shall notify the administrator and the Gorge Commission within twenty-four hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within twenty-four hours.

- C. Survey and Evaluations. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the DAHP. (See Chapter [27.53](#) RCW.) It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the provisions in the Section [22.30.030](#). Based upon the survey and evaluation report and any written comments, the administrator shall make a final decision on whether the resources are significant. A mitigation plan shall be prepared if the affected cultural resources are significant. Construction activities may recommence if the cultural resources are not significant.
- D. Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation and report provisions contained in Section [22.30.050](#). Construction activities may recommence when the conditions in the mitigation plan have been executed. (Ord. 2018-04 (Exh. A), 4-17-18; Ord. 2008-06 (part); Ord. 2006-11 (part); Ord. 2005-07 (part))

[22.30.070 Discovery of human remains.](#)

The following procedures shall be effected when human remains are discovered during a cultural resource survey or during construction. "Human remains" means articulated or disarticulated human skeletal remains, bones or teeth, with or without attendant burial artifacts.

- A. Halt of Activities. All survey, excavation and construction activities shall cease. The human remains shall not be disturbed any further.
- B. Notification. Local law enforcement officials, the administrator, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.
- C. Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives of the Indian tribal governments shall be contacted immediately.
- D. Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.
- E. Treatment. The procedures set out in Chapters [27.44](#) and [68.05](#) RCW shall generally be implemented if the remains are prehistoric/historic. If human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements set out in Section [22.30.050](#). The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in Section [22.30.030](#)(D) are met and the mitigation plan is executed. (Ord. 2018-04 (Exh. A), 4-17-18; Ord. 2008-06 (part); Ord. 2006-11 (part); Ord. 2005-07 (part))

Thurston County

- **Chapter 23.26 - ARCHAEOLOGICAL AND HISTORIC SITES**

- **23.26.020 - Purpose.**

It is the policy of Thurston County to protect the Olympia UGA's historical and cultural heritage for present and future generations.

(Ord. 11274 § 3 (part), 1996)

- **23.26.040 - Applicability.**

This chapter shall apply to those lands within the Olympia UGA which are defined as:

- A. Archaeological sites;
- B. Historic sites.

(Ord. 11274 § 3 (part), 1996)

- **23.26.060 - Authority.**

In addition to meeting any other requirements of this Zoning Ordinance, developments which are located upon property subject to this chapter, including developments which require only the issuance of a building permit, shall be reviewed as provided in this chapter. The review authority shall jointly be the department and the environmental review officer. For proposals requiring administrative approval, the review authority may approve, deny or condition a proposed development to meet the purpose and other provisions of this chapter. In those situations where the environmental review officer and the department are unable to reach a consensus decision on a proposal the director shall decide. For proposals requiring a public hearing, the hearing examiner may approve, deny or condition the proposed development to meet the provisions of this chapter.

- A. Authority—More Restrictive Development Standards. In addition to meeting the standards of the underlying zone, the review authority may require the use of more restrictive management techniques described below, as required by site conditions:
 1. Building and development coverage;
 2. Setbacks or buffers;
 3. Size of lots and development sites;
 4. Height limits;
 5. Density limits;
 6. Restoration of ground cover and vegetation;
 7. Innovative design or construction methods;
 8. Provisions for access or right-of-way; and
 9. Other measures for environmental protection.

(Ord. 11274 § 3 (part), 1996)

- **23.26.080 - Archaeological sites.**

In order to protect and preserve the value of cultural resources, developments may be required to meet the following conditions:

- A. Whenever in the course of excavation or development, artifacts and items of archaeological interest are discovered, the excavation or development must immediately be stopped, and the find must be reported to the review authority. The local jurisdiction shall then notify the Office of Archaeology and Historic Preservation for their review and comment.
- B. The review authority shall arrange for an inspection of the site within seven calendar days by one or more professional archaeologists. These individuals shall make recommendations as to site restoration, site protection, or removal of artifacts, or loss of the site to development, so that the site may be used as intended, or compensation may be made as may be feasible at the time.
- C. The review authority may add mitigating conditions to the project approval in order to protect these sites or artifacts, so long as normal permit procedures are followed.
- D. Where known sites (as recorded by the Office of Archaeology and Historic Preservation) are proposed for development, the review authority shall consult this agency for its recommendations, and may deny the permit where the archaeological value of the site outweighs the development value, if compensation is available.

(Ord. 11274 § 3 (part), 1996)

Whatcom County

23.90.070 Archaeological, historic and cultural resources.

A. Policies.

1. The county should work with tribal, state, federal and local governments as appropriate to maintain an inventory of all known significant local historic, cultural and archaeological sites in observance of applicable state and federal laws protecting such information from general public disclosure. As appropriate, such sites should be protected, preserved and/or restored for study, education and/or public enjoyment to the maximum possible extent.
2. Site development plans should incorporate provisions for historic, cultural and archaeological site preservation, restoration and education with open space or recreation areas whenever compatible and possible.
3. Cooperation among involved private and public parties is encouraged to achieve the archaeological, historical and cultural element goals and objectives of this program.
4. Owners of property containing identified historic, cultural or archaeological sites are encouraged to make development plans known well in advance of application, so that appropriate agencies such as the Lummi Nation, Nooksack Tribe, Washington State Department of Archaeology and Historic Preservation, and others may have ample time to assess the site and make arrangements to preserve historical, cultural and archaeological values as applicable.
5. Private and public owners of historic sites should be encouraged to provide public access and educational opportunities in a manner consistent with long-term protection of both historic values and shoreline ecological functions.
6. Historic, cultural and archaeological site development should be planned and carried out so as to prevent impacts to the resource. Impacts to neighboring properties and other shore uses should be limited to temporary or reasonable levels.
7. If development is proposed adjacent to an identified historic, cultural or archaeological site, then the proposed development should be designed and operated so as to be compatible with continued protection of the historic, cultural or archaeological site.

8. The cultural resource provisions of this program are consistent with Chapters [27.44](#) and [27.53](#) RCW and WAC [25-48-060](#). In accordance with state law, all applicants are subject to these requirements.

B. Regulations.

1. Known Archaeological, Historic and Cultural Resources.

- a. Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties within 500 feet of a site known to contain an historic, cultural or archaeological resource(s), the county shall require a cultural resource site assessment; provided, that the provisions of this section may be waived if the administrator determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic, cultural or archaeological site. The site assessment shall be conducted by a professional archaeologist or historic preservation professional, as applicable, to determine the presence of significant historic or archaeological resources. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party. The applicant shall submit a minimum of five copies of the site assessment to the administrator for distribution to the applicable parties for review.
- b. If the cultural resource site assessment identifies the presence of significant historic or archaeological resources, a cultural resource management plan (CRMP) shall be prepared by a professional archaeologist or historic preservation professional, as applicable. The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party. In the preparation of such plans, the professional archaeologist or historic preservation professional shall solicit comments from the Washington State Department of Archaeology and Historic Preservation, the Lummi Nation Tribal Historic Preservation Office and Nooksack Tribe. Comments received shall be incorporated into the conclusions and recommended conditions of the CRMP to the maximum extent practicable. The applicant shall submit a minimum of five copies of the CRMP to the administrator for distribution to the applicable parties for review.
 - i. A CRMP shall contain the following minimum elements:

- (A) The purpose of the project; and
- (B) A site plan for proposed on-site development; and
- (C) Depth and location of all ground disturbing activities including, but not limited to, utilities, driveways, clearing and grading; and
- (D) An examination of project on-site design alternatives; and
- (E) An explanation of why the proposed activity requires a location on, or access across and/or through, a significant historic or archaeological resource; and
- (F) A description of the historic/archaeological resources affected by the proposal; and
- (G) An assessment of the historic/archaeological resource and an analysis of the potential adverse impacts as a result of the activity; and
- (H) An analysis of how these impacts have been avoided; or
- (I) Where avoidance is not possible, how these impacts have been mitigated/minimized; and
- (J) A recommendation of appropriate mitigation measures, which may include but are not limited to the following:

- (1) Recording the site with the State Department of Archaeology and Historic Preservation, or listing the site in the National Register of Historic Places, Washington Heritage Register, as applicable, or any locally developed historic registry formally adopted by the Whatcom County council;

- (2) Preservation in place;

- (3) Reinterment in the case of grave sites;

- (4) Covering an archaeological site with a nonstructural surface to discourage pilferage (e.g., maintained grass or pavement);

- (5) Excavation and recovery of archaeological resources;
- (6) Inventorying prior to covering of archaeological resources with structures or development; and
- (7) Monitoring of construction excavation.

(K) An outline of actions to be taken by the property owner, developer, archaeologist, or historic preservation professional, as applicable, in the event that an inadvertent discovery of historic, cultural or archaeological sites or artifacts occurs during site development, which includes the following:

- (1) A statement that work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the administrator and other appropriate governments and agencies.
- (2) Contact information for applicable parties, agencies and governments including the county administrator, the Washington State Department of Archaeology and Historic Preservation, Lummi Nation Tribal Historic Preservation Office, Nooksack Tribe, professional archaeologist or historic preservation professional; and in the event of inadvertent discovery of human remains, additional contact information for the Whatcom County sheriff's office, Whatcom County medical examiner, and/or Lummi Repatriation Office.
- (3) Proposed measures to stabilize, contain or otherwise protect the area of inadvertent discovery until a site investigation and/or site assessment is conducted.

(L) Where provision of public access for the purpose of public education related to a private or publicly owned building or structure of historic significance is desired by the property owner, a public access management plan shall be developed in consultation with the Washington State Department of Archaeology and Historic Preservation,

Lummi Nation Tribal Historic Preservation Office, Nooksack Tribe and/or other agencies, as appropriate, to address the following:

- (1) The type and/or level of public access that is consistent with the long-term protection of both historic resource values and shoreline ecological functions and processes; and
- (2) Site- and resource-specific conditions and/or improvements including the following, as applicable:

- (a) Hours of operation,
- (b) Interpretive and/or directional signage,
- (c) Lighting,
- (d) Pedestrian access, and/or
- (e) Traffic and parking.

(M) Where provision of public access for purposes of public education related to an archaeological or cultural resource site is desired by the property owner, the Washington State Department of Archaeology and Historic Preservation, Lummi Nation Tribal Historic Preservation Office, Nooksack Tribe and/or other agencies, as appropriate, shall be in agreement prior to providing public access to the site. An access and resource management plan shall be developed in consultation with the Washington State Department of Archaeology and Historic Preservation, the Lummi Nation Tribal Historic Preservation Office, and the Nooksack Tribe.

- ii. The recommendations and conclusions of the CRMP shall be used to assist the administrator in making final administrative decisions concerning the presence and extent of historic/archaeological resources and appropriate mitigating measures. The administrator shall consult with the Washington State Department of Archaeology and Historic Preservation, Lummi Nation Tribal Historic Preservation Office, and Nooksack Tribe prior to approval of the CRMP.

iii. The administrator may reject or request revision of the conclusions reached in a CRMP when the administrator can demonstrate that the assessment is inaccurate or does not fully address the historic/archaeological resource management concerns involved.

c. Upon receipt of a complete development permit application in an area of known historic/archaeological resources, the county shall notify and request a recommendation from appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation, the Lummi Nation Tribal Historic Preservation Office, and Nooksack Tribe. Recommendations of such agencies and other affected persons shall be duly considered and adhered to whenever possible and reasonable. Notification shall include the following information:

- i. The date of application, the date of notice of completion for the application, and the date of the notice of application;
- ii. A site map including the street address, tax parcel number, township, range, and section of the proposed project area;
- iii. A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the county;
- iv. The identification of other permits not included in the application to the extent known by the county;
- v. The identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
- vi. Any other information determined appropriate by the county;
- vii. A statement indicating those development regulations that will be used for project mitigation or a determination of consistency if they have been identified at the time of notice;

viii. A statement of the limits of the comment period and the right of each agency to comment on the application within a 15-day time period, request a copy of the decision once made, and to appeal a decision when allowed by law.

d. In granting shoreline permits or statements of exemption for such development, the county may attach conditions to provide sufficient time and/or conditions for consultation with the Washington State Department of Archaeology and Historic Preservation, Lummi Nation Tribal Historic Preservation Office and Nooksack Tribe, and to assure that historic/archaeological resources are properly protected, or for appropriate agencies to contact property owners regarding purchase or other long-term arrangements. Provision for the protection and preservation of historic/archaeological sites shall be incorporated to the maximum extent practicable. Permit or other requirements administered by the Washington State Department of Archaeology and Historic Preservation pursuant to Chapters [27.44](#) and [27.53](#) RCW may apply in addition.

2. Inadvertent Discovery.

a. Whenever historic, cultural or archaeological sites or artifacts are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately, the site secured and the find reported as soon as possible to the administrator. Upon notification of such find, the property owner shall notify the Washington State Department of Archaeology and Historic Preservation, Lummi Nation Tribal Historic Preservation Office, and Nooksack Tribe, and the administrator shall conduct a site investigation to determine the significance of the discovery. Based upon the findings of the site investigation and consultation with the Washington State Department of Archaeology and Historic Preservation, Lummi Nation Tribal Historic Preservation Office, and Nooksack Tribe, the administrator may require that an immediate site assessment be conducted or may allow stopped work to resume.

b. If a site assessment is required, the area of inadvertent discovery shall be stabilized, contained or otherwise protected until the site assessment and/or CRMP is completed. The site assessment shall be prepared pursuant to subsection (B)(1)(a) of this section to determine the significance of the discovery and the extent of damage to the resource and shall be distributed to the Washington State Department of Archaeology and Historic Preservation, the Lummi Nation Tribal Historic

Preservation Office, and Nooksack Tribe for a 15-day review period or, in the case of inadvertent discovery of human remains, a 30-day review period to determine the significance of the discovery. If the site has been determined not to be significant by the above-listed agencies or governments, or if the above-listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, such stopped work may resume.

- c. Upon receipt of a positive determination of a site's significance, the administrator may invoke the provisions of subsections (B)(1)(b) through (d) of this section for a cultural resource management plan, if such action is reasonable and necessary to implement related SMP objectives.

- 3. The requirements of subsection (B)(1) of this section do not apply where an applicant/project proponent has obtained an approved archeological excavation and removal permit from the Washington State Department of Archaeology and Historic Preservation pursuant to WAC [25-48-060](#); provided, that the applicant must adhere to the requirements of said approved permit. (Ord. 2009-13 § 1 (Exh. 1)).

City of Bothell

13.09.010 Archaeological and historic resources.

- A. The city shall require that permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes.
- B. Developers and property owners shall immediately stop work and notify the responsible local government, the Washington State Department of Archaeology and Historic Preservation, and affected Indian tribes if archaeological resources are uncovered during excavation.
- C. Where a professional archaeologist or historian, recognized by the state of Washington, has identified an area or site as having significant value, or where an area or site is listed in national, state, county or Bothell historical registers, the city may require an evaluation of the resource, and appropriate conditions, which may include preservation and/or retrieval of data, proposal modifications to reduce adverse impacts, or other mitigation authorized through the State Environmental Policy Act, or other local, state, or federal laws.
- D. Archaeological sites located both in and outside shoreline jurisdiction are subject to Chapter [27.44](#) RCW (Indian graves and records) and Chapter [27.53](#) RCW (Archaeological sites and resources) and development or uses that may adversely impact such sites shall comply with Chapter [25-48](#) WAC (Archaeological excavation and removal permit), as well as the provisions of this master program.
- E. The presence and location of identified historic or archaeological resources shall be considered in park, open space, public access, and site planning, with access to such areas designed and managed so as to give maximum protection to the resource and surrounding environment. (Ord. 2112 § 3 (Exh. C), 2013).

City of College Place

- **14.10.040 - General provisions.**

A. Except as provided in this title, the following general provisions apply:

1. No land, building, structure or premises shall be used, designed or intended to be used for any purpose or in any manner other than in a use listed in this title or amendment thereto as permitted in the zone in which such land, building, structure or premises is located.
2. No designated yards or open spaces surrounding any building or structure shall be encroached upon or reduced in any manner except in conformity with the building site, area and yard requirements established by this title, nor shall any yard or open space associated with any building or structure for the purpose of complying with the requirements of this title or amendments thereto be considered as providing a yard or open space for any other building or structure.
3. No building or structure shall be erected or moved onto a site and no existing building or structure shall be altered, enlarged, or reconstructed except in conformity with this title. Nor shall any building or structure be erected or structurally altered to exceed in height the limit established by this title or amendment thereto for the zone in which such building or structure is located.
4. No buildings or permanent structures shall be permitted over a utility easement.
5. All new buildings and development activities that require water and sewer service shall connect to the city systems if available, in accordance with the provisions of the Laws of Washington State.

B. Nothing contained in this title shall require any change in any existing building or structure, construction or planned use of a proposed building, which would conform to the zoning regulations then in effect and for which building permit plans are on file in City Hall prior to the effective date of the ordinance codified in this title and the construction of which building or structure shall have been started within the time requirements of such building permit and diligently worked upon to its completion, unless by some other operation of applicable law.

C. No land use in violation of local, state, or federal law shall be allowed in any zone within the City of College Place and are hereby expressly prohibited.

D. In cases where multiple lots under common ownership will be used for one building site, and in particular those cases where a structure is proposed to be built across a lot line or within lot setbacks, the lots shall be consolidated into one lot.

1. The consolidation shall be prepared by the owner(s) or their representative and subject to review and approval by the city in the same manner as a boundary/lot line adjustment; and
2. Upon approval, the consolidation shall be recorded at the office of the county auditor.

- E. Upon discovery of any human remains, artifacts, or evidence of potential archaeological or cultural resources all construction activities or uses authorized under this title shall be suspended pending authorization to proceed from the city, and/or the Washington State Department of Archaeology and Historic Preservation, in accordance with the provisions of state and federal law, including, but not limited to RCWs 68.50.645, 27.44.055, and 68.60.055.
1. If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity will cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance until the Washington State Department of Archaeology and Historic Preservation (DAHP) provides notice to proceed. The finding of human skeletal remains will be reported to the College Place Police Department and the Walla Walla County Coroner in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county coroner determines the remains are non-forensic, then they will report that finding to the department of archaeology and historic preservation who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The state physical anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the Confederated Tribes of the Umatilla Indian Reservation. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.
 2. If ground disturbing activities encounter artifacts, or evidence of potential archaeological or cultural resources during construction, then all activity will cease that may cause further disturbance to those items. The project sponsor shall immediately contact the College Place Department of Community Development to determine how best to secure the site and to consult with the Confederated Tribes of the Umatilla Indian Reservation and the DAHP.

(Ord. No. [20-021](#), § 2(Exh. A), 11-24-2020)

City of Lacey

16.53.080 Inadvertent discovery of archaeological and cultural resources.

Building, grading, and land clearing permits shall include the following note: When an unanticipated discovery of protected cultural material (e.g., bones, shell, stone tools, beads, ceramics, old bottles, hearths, etc.) or human remains are discovered, the property owner or contractor will immediately stop all work, completely secure the location, and contact the Washington State Department of Archaeology and Historic Preservation and other contacts as identified in the City of Lacey Standard Inadvertent Archaeological and Historic Resources Discovery Plan. The individual or representative whom the permit was issued to must send written notification of the inadvertent discovery to the city of Lacey department of community and economic development. (Ord. 1539 §96, 2019; Ord. 1507 §10, 2017).

City of Olympia

18.12.120 Cultural Resources

- A. Whenever in the course of excavation or development, archaeological materials (e.g. bones, collections of shells, stone tools, beads, ceramics, old bottles, and old building foundations) or human remains are observed during project activities, all work in the immediate vicinity shall stop. The City of Olympia Historic Preservation Officer (HPO), Washington State Department of Archaeology and Historic Preservation (DAHP), all interested Tribes, City of Olympia Building Official, and, in the case of humans remains, Olympia Police Department and Thurston County Coroner, shall be contacted immediately by the property owner, site manager, or City staff for immediate response to evaluate the discovered materials.
- B. Provided initial inspection indicates that the materials may be cultural resources or human remains, the City shall request DAHP and interested Tribes to recommend an appropriate course of action prior to resumption of construction. The property owner may be required to hire a qualified archaeologist to evaluate the site within seven (7) calendar days. The archaeologist shall make a recommendation on the site's eligibility for the National Register of Historic Places (NRHP) as per the National Historic Preservation Act. This recommendation will be reviewed by DAHP and interested Tribes for determination of eligibility for the NRHP.
- C. If the site is determined eligible for the NRHP, the HPO or designee shall consult with DAHP and all interested Tribes for recommendations on appropriate mitigation of effects before construction resumes. The Building Official may revoke or temporarily suspend the permit, or add mitigation conditions based on the site's archaeological importance. The discovery of archaeological materials requires that the property owner must comply with all applicable laws pertaining to archaeological resources. Failure to comply with this requirement could constitute a Class C Felony. If federal funds or permits are involved in the project, notification to the appropriate federal agency and the Advisory Council shall occur in addition to the above-listed parties.
- D. Where previously recorded archeological sites are proposed for development, the Director shall consult DAHP and all interested Tribes for their recommendations, and may deny or condition the permit to avoid harm to or destruction of the archaeological site.

(Ord. 7109 §4, 2017; Ord. 7011 §1, 2016; Ord. 6491 §8, 2007).

18.12.130 Tribal and Agency Consultation on Development Review

- A. Interested Tribes and the State Department of Archaeology and Historic Preservation (DAHP) shall be notified when an application for land use approval has been submitted to the City of Olympia as described in OMC [18.78.020](#) Public Notification Procedures. Additional notice of consultation may be provided by the City Historic Preservation Officer.
- B. Consistent with law, any recommendations and/or requests by Consulting Tribes and/or DAHP on cultural resource protection will be given substantial weight in decisions on land use approval and subsequent permit issuance.

(Ord. 7109 §5, 2017).

18.12.140 Cultural Resource Protection

- A. Cultural Resources shall be protected from damage during construction and all other development activities in accordance with OMC Sections [18.12.120](#) and 18.12.140B.
- B. Additional Protections for Cultural Resources.
 - 1. Building permit recipients for development projects that meet the following criteria shall be required to sign an Inadvertent Discovery Plan (IDP) provided by the City of Olympia Historic Preservation Officer:
 - a. All projects subject to State Environmental Policy Act (SEPA) thresholds; and
 - b. All projects located within the Downtown SEPA Exemption Area.

The signed IDP shall be held on site throughout the duration of any ground-disturbing activities related to the project.

- 1. The Director may require additional actions to protect known or predicted cultural resources as a result of requests submitted by Consulting Tribes and/or DAHP during consultation for the following:
 - a. Projects subject to State Environmental Policy Act (SEPA) thresholds;
 - b. Projects located within the Downtown SEPA Exemptions Area; and
 - c. Projects subject to other State and Federal laws which protect cultural and historic resources, including but not limited to Executive Order 05-05 and Section 106 of the National Historic Preservation Act.

(Ord. 7109 §6, 2017).

City of Seattle

- **23.60A.154 - Standards for archaeological and historic resources**

- A. Developments, shoreline modifications, and uses on any site having historic, cultural, scientific, or educational value, as defined by the Washington State Department of Archaeology and Historic Preservation and local tribes, shall reasonably avoid disruption of the historic, cultural, scientific, or educational resource.
- B. Applications in areas documented by the Washington State Department of Archaeology and Historic Preservation to contain archaeological resources shall include a preliminary cultural resource evaluation or site inspection, and a written report prepared by a qualified professional archaeologist in compliance with [Section 106](#) of the National Historic Preservation Act or State Executive Order 05-05, approved by the City, prior to the issuance of a permit. In addition, the archaeologist also shall provide copies of the draft report to affected tribes and the Washington State Department of Archaeology and Historic Preservation. After consultation with these tribes and agencies, the archaeologist shall provide a final report that includes any recommendations from affected tribes and the Washington State Department of Archaeology and Historic Preservation on avoidance or mitigation of the proposed project's impacts. The Director shall condition project approval based on the final report from the archaeologist to avoid, minimize, and mitigate impacts to the site consistent with federal and state law.
- C. If any archaeological resources are uncovered during the proposed work, work shall be stopped immediately, and the applicant shall notify the City, affected tribes, and the Washington State Department of Archeology and Historic Preservation. The applicant shall submit a site inspection and evaluation report by a qualified professional archaeologist, approved by the City, that identifies all possible valuable archaeological data and makes recommendations on how to handle the data properly. When the report is prepared, the applicant shall notify affected tribes and the Washington State Department of Archaeology and Historic Preservation and provide them with copies of the report.
- D. If identified historical or archaeological resources are present, site planning and access to such areas shall be designed and managed to give protection to the resource and surrounding environment, and any permit issued shall be revised.
- E. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data, the project may be exempted from the requirement to obtain a shoreline substantial development permit. The City shall notify Ecology, the State Attorney General's Office, affected tribes and the State Department of Archaeology and Historic Preservation of the exemption in a timely manner.

(Ord. [124750](#), § 7, 2015; Ord. [124105](#), § 3, 2013.)

25.05.675 - Specific environmental policies

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H. Historic preservation

1. Policy background

- a. Historic buildings, special historic districts, and sites of archaeological significance are found within Seattle. The preservation of these buildings,

districts, and sites is important to the retention of a living sense and appreciation of the past.

- b. Historic sites, structures, districts, and archaeological sites may be directly or indirectly threatened by development or redevelopment projects.
- c. Historic buildings are protected by [Chapter 25.12](#), as administered by the Landmarks Preservation Board. However, not all sites and structures meeting the criteria for historic landmark status have been designated yet.
- d. Special districts have been established to protect certain areas which are unique in their historical and cultural significance, including for example Pike Place Market, Pioneer Square and the International District. These areas are subject to development controls and project review by special district review boards.
- e. Archaeologically significant sites present a unique problem because protection of their integrity may, in some cases, eliminate any economic opportunity on the site.

2. Policies

- a. It is the City's policy to maintain and preserve significant historic sites and structures and to provide the opportunity for analysis of archaeological sites.
- b. For projects involving structures or sites which have been designated as historic landmarks, compliance with [Chapter 25.12](#) shall constitute compliance with the policy set forth in subsection 25.05.675.H.2.a above.
- c. For projects involving structures or sites which are not yet designated as historical landmarks but which appear to meet the criteria for designation, the decisionmaker or any interested person may refer the site or structure to the Landmarks Preservation Board for consideration. If the Board approves the site or structure for nomination as an historic landmark, consideration of the site or structure for designation as an historic landmark and application of controls and incentives shall proceed as provided by [Chapter 25.12](#). If the project is rejected for nomination, the project shall not be conditioned or denied for historical preservation purposes, except pursuant to subsections 25.05.675.H.2.d or 25.05.675.H.2.e.
- d. When a project is proposed adjacent to or across the street from a designated site or structure, the decisionmaker shall refer the proposal to the City's Historic Preservation Officer for an assessment of any adverse impacts on the designated landmark and for comments on possible mitigating measures. Mitigation may be required to insure the compatibility of the proposed project with the color, material and architectural character of the designated landmark and to reduce impacts on the character of the landmark's site. Subject to the overview policy set forth in [Section 25.05.665](#), mitigating measures may be required and are limited to the following:
 - 1) Sympathetic facade treatment;
 - 2) Sympathetic street treatment;

- 3) Sympathetic design treatment; and
 - 4) Reconfiguration of the project and/or relocation of the project on the project site; provided, that mitigating measures shall not include reductions in a project's gross floor area.
- e. On sites with potential archaeological significance, the decisionmaker may require an assessment of the archaeological potential of the site. Subject to the criteria of the overview policy set forth in [Section 25.05.665](#), mitigating measures that may be required to mitigate adverse impacts to an archaeological site include, but are not limited to:
- 1) Relocation of the project on the site;
 - 2) Providing markers, plaques, or recognition of discovery;
 - 3) Imposing a delay of as much as 90 days (or more than 90 days for extraordinary circumstances) to allow archaeological artifacts and information to be analyzed; and
 - 4) Excavation and recovery of artifacts.

City of Tacoma

13.12.570 Archaeological, Cultural, and Historic Resources.

A. Regional Growth Centers.

1. This section sets forth provisions for addressing archaeological, cultural, and historic resources for projects located within the Downtown Tacoma Regional Growth Center and within the Tacoma Mall Neighborhood Regional Growth Center in areas where a Subarea Plan and a companion area-wide, non-project Environmental Impact Statement (“EIS”) have been completed. The Planning and Development Services Department will use this process and any required assessments to evaluate potential impacts and assist in identifying and establishing appropriate mitigation measures.
2. Cultural Site Assessment Requirements.
 - a. All applications for a permit shall indicate whether the property is within 500 feet of a site known to contain an historic, cultural or archaeological resource(s) based upon historic registers and records. Locations of known archaeological sites are restricted and consultation with the Washington Department of Archaeology and Historic Preservation or a certified archaeologist will be required.
 - (1) If there are no known historically designated or significant sites within 500 feet of the subject property, a letter to the Historic Preservation Officer should be submitted with the development stating so, along with the research methods used and resources consulted.
 - (2) If the property is determined to be within 500 feet of a site known to contain historic, cultural, or archaeological resources, the City shall require a cultural resource site assessment; provided that, the provisions of this section may be waived if the Director determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic, cultural or archaeological site. The intent of the site assessment is to identify potentially affected historic or cultural significant properties near the project area, and to provide a general assessment of the potential impacts to these properties. The site assessment shall contain the following elements:
 - (a) The Cultural Resource Assessment shall catalog known significant historic or cultural sites in the vicinity (500 feet) of the proposed project, and assess whether there are any probable impacts to those sites resulting from the development activity. This assessment shall include photographs and a brief description of significant sites, a description of anticipated impacts (if any) and a map showing locations relative to the proposed development.
 - (b) Where there is a large planned development that may affect numerous historically significant properties, and for any project

that includes demolitions of structures 50 years of age or older, the documentation of buildings must be conducted in accordance with Washington State Department of Archaeology and Historic Preservation guidelines for survey and site reporting. Such documentation must include an assessment of the historic significance or lack thereof, and the basis for this assessment.

- (c) Demolition of historically significant structures or the disturbance of documented archaeological sites will automatically require the preparation of a Cultural Resource Management Plan (see below).
- (d) Waivers of the Cultural Site Assessment. Applicants may request that the provisions of this section be waived by submittal of a written request stating the basis for such a waiver, including the resources consulted and research conducted.
- (e) The fee for the services of the professional archaeologist or historic preservation professional shall be paid by the landowner or responsible party, if needed.

(3) From the date of receipt of the Cultural Resource Assessment, the Historic Preservation Officer shall have thirty (30) days to review the document. The Historic Preservation Officer may accept the assessment as presented, request additional information or clarification, or find that, due to likely adverse effects upon historically or culturally significant properties resulting from the development project, a Cultural Resource Management Plan should be completed.

3. Cultural Resource Management Plan.

- a. If the cultural resource site assessment identifies the presence of significant historic or archaeological resources, for which there is an anticipated adverse effect resulting from the proposed development activity, a Cultural Resource Management Plan ("CRMP") shall be prepared by a professional archaeologist or historic preservation professional paid by the landowner or responsible party. In the preparation of such plans, the professional archaeologist or historic preservation professional shall solicit comments from the Washington State Department of Archaeology and Historic Preservation and the Puyallup Tribe. Comments received shall be incorporated into the conclusions and recommended conditions of the CRMP to the maximum extent practicable.
- b. The CRMP is intended to provide documentation that allows a thorough assessment of the anticipated adverse impacts to historic and culturally significant properties resulting from development activities within the regional growth center or subarea. The CRMP shall be prepared by a qualified cultural resources consultant, as defined by the Washington State Department of Archaeology and Historic Preservation, and shall contain the following minimum elements and information:

- (1) A Description of the Area of Potential Effect (“APE”) for the project, defined as geographic area or areas within which the development project may directly or indirectly cause changes in the character or use of historic or culturally significant properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of the project and may be different for different kinds of effects caused by the project. The justification for the APE shall include a general description of the scope of work for the project and the extent and locations of ground disturbing activities (ground disturbing activities include excavations for footings, pilings, utilities, environmental testing or sampling, areas to be cleared and/or graded, demolition, removal or relocation of any existing structures, and any other ground disturbances that may occur as a result of construction activities);
- (2) An inventory and assessment of all historically and culturally significant/designated properties within the APE, including citations, with dates, of any previous written documentation on listed or known culturally significant sites. In compiling this information consultations with the following agencies shall be necessary, and a list of the agency officials that were consulted with shall be included, such as the Washington State Department of Archaeology and Historic Preservation, the City of Tacoma Historic Preservation Office, and the Puyallup Tribe of Indians;
- (3) An assessment of probable direct and indirect impacts within the APE resulting from development activities, including:
 - (a) Demolition of any buildings or structures over 50 years of age.
 - (b) The potential for the site to contain historic or prehistoric archaeological materials, based on the topography of the property, historical literature, geological data, geographical context, or proximity to areas of known cultural significance.
- (4) An examination of project on-site design alternatives, including an explanation of why the proposed activity requires a location on, or access across and/or through, a significant historic or archaeological resource; and
- (5) A description of how potential adverse effects to cultural resources as a result of construction activities will be mitigated or minimized. Subject to review and approval of the City’s Historic Preservation Officer, appropriate mitigation may include, but is not limited to:
 - (a) Additional consultation with federal, state, local and tribal officials or the Tacoma Landmarks Commission.
 - (b) Additional studies such as pedestrian surveys, subsurface testing, remote sensing, phased or periodic testing as a part of any geotechnical assessment or soil testing required for the project, or monitoring during construction.
 - (c) Avoidance of historic/cultural resources;

- (d) Retention of all or some of a historic structure into a new development;
 - (e) Interpretive/educational measures;
 - (f) Off-site/on site preservation of another historic resource;
 - (g) Recording the site with the Washington State Department of Archaeology and Historic Preservation, or listing the site in the National Register of Historic Places, Washington Heritage Register, as applicable, or any locally developed historic register formally adopted by the City of Tacoma;
 - (h) Preservation in place;
 - (i) Reinternment in the case of grave sites;
 - (j) Covering an archaeological site with a nonstructural surface to discourage pilferage (e.g., maintained grass or pavement);
 - (k) Excavation and recovery of archaeological resources;
 - (l) Inventorying prior to covering of archaeological resources with structures or development; and
 - (m) Monitoring of construction excavation.
- c. Upon receipt of a complete permit application in an area of known historic/archaeological resources, the City shall notify and request a recommendation from appropriate agencies such as the Washington State Department of Archaeology and Historic Preservation and the Puyallup Tribe. Recommendations of such agencies and other affected persons shall be duly considered and adhered to whenever possible and reasonable.
- d. The recommendations and conclusions of the CRMP shall be used to assist the Director in making final administrative decisions concerning the presence and extent of historic/archaeological resources and appropriate mitigating measures. The Director shall consult with the Washington State Department of Archaeology and Historic Preservation and the Puyallup Tribe prior to approval of the CRMP.
- e. The Director may reject or request revision of the conclusions reached in a CRMP when the Director can demonstrate that the assessment is inaccurate or does not fully address the historic/archaeological resource management concerns involved.

City of Vancouver, WA

20.710.010 Purpose.

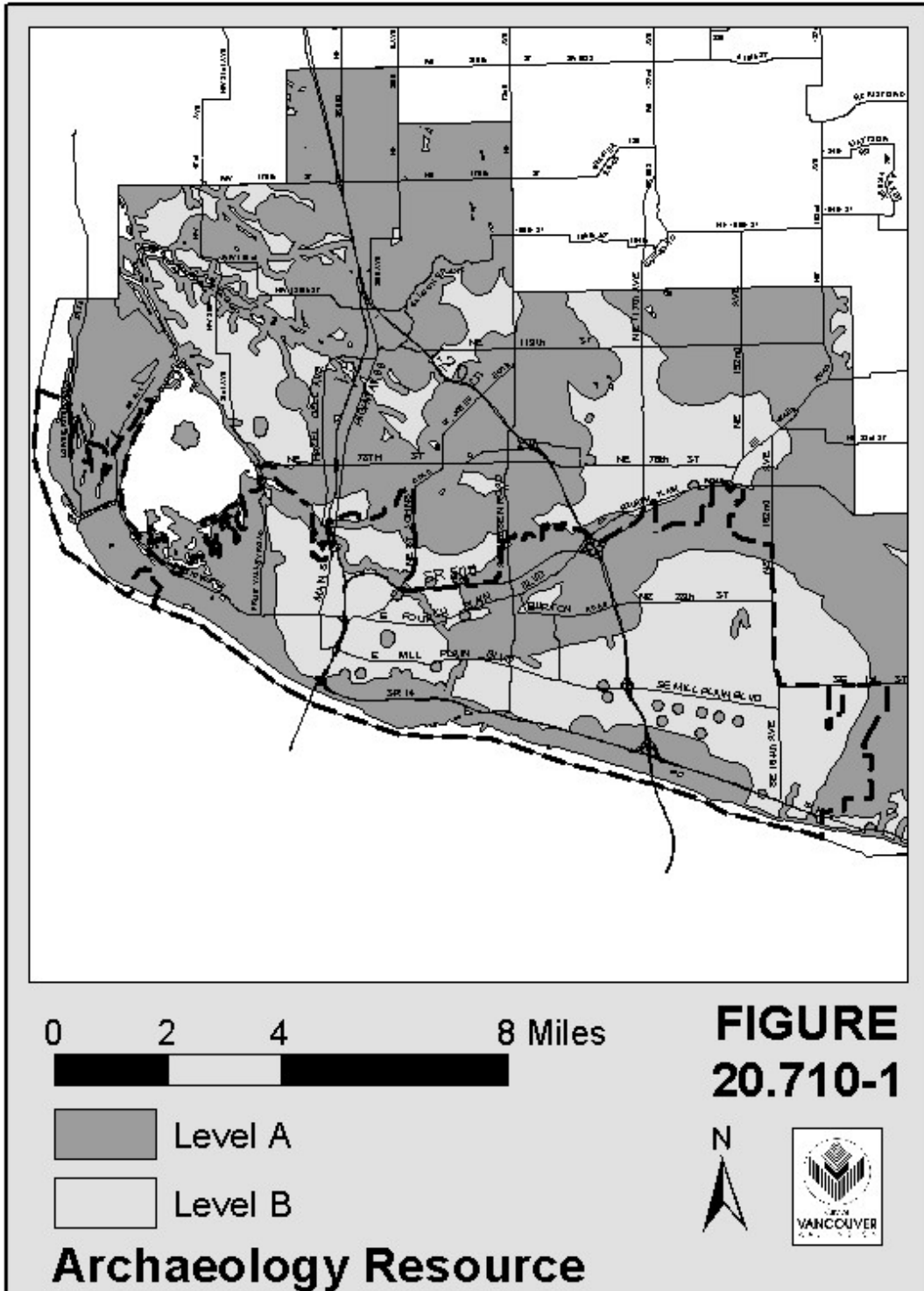
The purposes of this Chapter are to:

- A. *Identify and preserve resources.* Encourage the identification and preservation of cultural, archaeological, and historic resources consistent with the Growth Management Act of 1990, as amended, and Vancouver's Comprehensive Plan, Visions for the Vancouver Urban Area.
- B. *Establish procedures and standards.* Establish clear procedures and specific standards for identifying, documenting, and preserving Vancouver's cultural, archaeological, and historic resources.
- C. *Use the best technology and techniques.* Ensure use of the best available technology and techniques commonly accepted as standards in the profession of archaeology for identification and preservation of cultural, archaeological, and historic resources.
- D. *Balance preservation and development.* Establish a fair and equitable process for balancing the need for identification and preservation of cultural, archaeological, and historic resources with land development.
- E. *Provide coordination and consistency.* Ensure coordination and consistency in the implementation of the State Environmental Policy Act, the Shoreline Management Act, the Growth Management Act, RCW Chapters [27.34](#), [27.44](#), [27.48](#), and [27.53](#), and associated regulations. (Ord. M-3643, 01/26/2004)

20.710.020 Applicability.

- A. *Universal.* Notwithstanding [20.710.020](#)(B) and (C) VMC below, the provisions of this chapter shall apply:
 - 1. When any item of archaeological interest is discovered during the course of a permitted ground-disturbing action or activity ([20.710.090](#) VMC).
 - 2. When the planning official determines that reliable and credible information indicates the probable existence of an archaeological site in a disturbance area for which an application for a permit or approval for a ground-disturbing action or activity has been submitted to the planning official.
- B. *General.* The provisions of this chapter shall apply to all applications for ground-disturbing actions or activities for which a permit or approval is required:

1. Where any portion of the disturbance area is within Predictive Model Probability Level A as shown in Figure 20.710-1.



2. Where the disturbance area is at least five acres in size and wholly within Predictive Model Probability Level B as shown in Figure 20.710-1.
 3. Regardless of disturbance area size or Predictive Model Probability Level, when the disturbance area is within 1/4 mile of a known, recorded archaeological site as measured on a horizontal plane extending in all directions. (See [20.710.020](#)(C)(11) VMC for a possible exemption.)
- C. *Exemptions.* Applications for the following permits, approvals or other ground-disturbing activities shall be exempt from the provisions of this Chapter, except where the provisions of [20.710.020](#)(A) VMC apply:
1. Land use permits handled as Type 1 actions under [20.210.040](#) VMC, except grading and tree removal permits; or
 2. Sign permits ([20.960](#) VMC); or
 3. Conditional use permits (VMC [20.245](#)) for a change in use only, not involving ground-disturbance for structural modification.
 4. Zoning variance approvals (VMC [20.290](#)).
 5. Ground-disturbing actions or activities classified as exempt actions under VMC [20.210.030](#) except landscaping activities and single-family and duplex dwellings not requiring an environmental review; or
 6. Ground-disturbing actions or activities where the planning official determines that the disturbance area was adequately investigated and documented [[20.710.050\(A\)](#) VMC] in the past and the existence of an archaeological site was determined not to be probable (prior predetermination) or not to be actual (prior survey); or
 7. Applications for permits or approvals for ground-disturbing actions or activities which have vested prior to the effective date of this chapter; or
 8. Ground-disturbing actions or activities where the provisions of this chapter were previously applied to a related application for a larger, more comprehensive, ground-disturbing action or activity which encompasses the scope of the current application; or
 9. Ground-disturbing actions or activities where a prior application for a larger, more comprehensive ground-disturbing action or activity which encompasses the scope of the current application was exempt from the provisions of this chapter pursuant to [20.710.020](#)(C) VMC; or
 10. Ground-disturbing actions or activities where the disturbance area is within 1/4 mile of a known, recorded archaeological site as measured on a horizontal plane extending in all directions may be exempted by the

planning official when appropriate due to the effects of a geographic barrier; or

11. Ground-disturbing actions or activities proposed in areas in which the planning official determines that previous substantial disturbance has been documented.

D. *Predictive Model Application.* When more than one Predictive Model Probability Level traverses a disturbance area, the entire disturbance area shall be considered to be within the level with the greatest probability rating.

E. *Coordination.*

1. Where the provisions of this chapter conflict with each other or with other local, state, or federal laws, ordinances, or programs, the more restrictive provisions shall apply.
2. The provisions of this ordinance shall apply throughout the city, including areas regulated by Vancouver's Shoreline Management Master Program.
3. The regulations of the State Environmental Policy Act SEPA shall supplement the provisions of this ordinance.
4. The provisions of this chapter are intended to coordinate with and supplement the related provisions of state law. [RCW Chapters [27.34](#), [27.44](#), [27.48](#), and 27.53.] (Ord. M-3701 § 20, 05/02/2005; Ord. M-3643, 01/26/2004)

20.710.030 Development Review Applications.

- A. A development application shall not be determined counter complete until any required predetermination has been completed and the predetermination report has been submitted to the Planning Official.
- B. All documents pertaining to archaeology reviews shall be exempt from any public disclosure requests [RCW [27.53.070](#)]. (Ord. M-4034 § 21, 12/03/2012; Ord. M-3643, 01/26/2004)

20.710.040 DAHP Coordination and Permitting.

- A. *Recording.* Any archaeological site identified pursuant to the provisions of this Chapter shall be recorded with the Washington State Department of Archaeology and Historic Preservation (DAHP). A copy of the State of Washington Archaeological Site Inventory form and cover letter to DAHP shall be submitted to the Planning Official with the required survey report VMC [20.710.080](#) (C).
- B. *Permit required.* A permit from DAHP shall be secured prior to digging, altering, excavating, and/or removing archaeological objects and sites or historic

archaeological resources, or removing glyptic or painted records of tribes or peoples, or archaeological resources from native American Indian cairns or graves (WAC [25-48-050](#), as amended). (Ord. M-3840 § 29, 08/06/2007; Ord. M-3643, 01/26/2004)

20.710.050 Documentation and Peer Review.

- A. *Documentation.* Archaeological sites shall be adequately investigated and documented. For purposes of this chapter, adequately investigated and documented shall mean that (1) the investigation method, level of analysis, and area covered are sufficient to meet the requirements of VMC [20.710.070](#) and VMC [20.710.080](#), as appropriate; and (2) the documentation is sufficient to allow another archaeologist to repeat the investigation and reach a similar conclusion. Adequacy shall be determined by the Planning Official.
- B. *When and how to use the peer review process.* In the event that there is substantive disagreement of a technical nature between archaeologists concerning an application subject to the provisions of this Chapter, either the Planning Official or the applicant may invoke the peer review process outlined by the US Department of the Interior, National Park Service September, 1993 publication, "The Peer Review of Public Archaeology Projects: A Procedure Developed by the Departmental Consulting Archaeologist" authored by Bennie C. Keel (ISSN 1057-1574) to resolve the issue. The party who invokes the peer review process shall bear the costs of the proceedings. The applicant and the City shall each appoint one, and together shall agree on the appointment of a third archaeologist to serve on the Peer Review Panel. (Ord. M-3643, 01/26/2004)

20.710.060 Tribal Notification.

- A. *Tribal registration.* Any Tribe may register to receive notification of required archaeological resource surveys. Such registration shall be in writing, be addressed to the Planning Official, and include the name of the Tribe and the name, title, and mailing address of the designated representative to whom the notice is to be provided.
- B. *Updating registration.* It is the responsibility of the Tribe to ensure that this registration information is updated by notifying the Planning Official in writing of any change.
- C. *Notification.* Where the Planning Official determines that the existence of an archaeological site is probable and an archaeological resource survey is required (VMC [20.710.080](#)), the Planning Official shall notify the Tribes which have registered with the City of such determination by certified mail, return receipt requested. The Planning Official shall accept comments from registered Tribes

for fourteen calendar days from the date the notification was received by the Tribes. (Ord. M-3643, 01/26/2004)

20.710.070 Predetermination Process.

- A. *Predetermination required.* A predetermination is an archaeological study similar to, but of less intensity and lower cost than an archaeological resource survey. Its purpose is to determine whether the existence of an archaeological site within a disturbance area is probable. A predetermination is required as follows:
1. For any nonexempt ground-disturbing action or activity for which a permit or approval is required where any portion of the disturbance area is at least partially within Predictive Model Probability Level A.
 2. For any nonexempt ground-disturbing action or activity for which a permit or approval is required and where the disturbance area is at least five acres in size and wholly within Predictive Model Probability Level B.
 3. For any nonexempt ground-disturbing action or activity for which a permit or approval is required where the disturbance area is proposed within 1/4 mile of a known, recorded archaeological site.
 4. When the Planning Official determines that reliable and credible information indicates the probable existence of an archaeological site in a disturbance area for which an application for a permit or approval for a ground-disturbing action or activity has been submitted to the Planning Official.
 5. When any item of archaeological interest is discovered during the course of a permitted or approved ground-disturbing action or activity ([20.710.090](#) VMC).
- B. *Waiver.* The Planning Official may waive the requirement for a predetermination where the applicant chooses to provide a survey in accordance with the provisions of this Chapter instead of a predetermination.
- C. *Pre-application review.* The Planning Official may review a predetermination report and issue a determination of the likelihood that archaeological resources exist prior to the submittal of an application for a permit or approval for a ground-disturbing action or activity subject to the provisions of this Chapter. Such pre-application review shall require permission for the Planning Official to enter and inspect the property.
- D. *Predetermination standards.* Predeterminations shall include at a minimum the following elements and be carried out according to the following minimum standards:

1. Predeterminations shall be performed by a professional archaeologist. Documentation shall be sufficient to allow another archaeologist to repeat the investigation and reach a similar conclusion. Adequacy shall be determined by the Planning Official.
 2. Predeterminations shall be performed in accordance with the best available technology and techniques commonly accepted as standards in the profession of archaeology.
 3. No artifacts shall be collected during a predetermination.
 4. A thorough review of records, documentation, maps, and other pertinent literature shall be performed.
 5. A visual inspection of the ground surface shall be completed when conditions yield at least 50% visibility of the soil. When conditions yield less than 50% visibility of the soil, subsurface investigation shall be required in accordance with VMC [20.710.070\(D\)\(6\)](#) below.
 6. Subsurface investigation shall be conducted as follows:
 - a. Subsurface investigation shall be performed:
 1. When conditions yield less than 50% visibility of the soil; or
 2. When otherwise considered necessary by the archaeologist.
 - b. When performed, the following standards shall apply:
 1. Subsurface probes shall be no less than 8in/20cm in diameter (12in/30cm or more preferred) at the ground surface, no less than 8in/20cm in diameter at the base, and shall delve no less than 20in/50cm deep into natural soil deposits whenever possible.
 2. The most appropriate number of and locations for subsurface probes shall be determined by the archaeologist.
 3. All material excavated by subsurface probes shall be screened using both 1/4-inch and 1/8-inch hardware mesh cloths or equivalent.
- E. *Predetermination reports.* A report shall be completed for each predetermination in accordance with [20.710.070](#)(D) VMC on standardized reporting forms furnished by the Department.
- F. Review of predetermination reports and further action.

1. Predetermination reports shall be reviewed by the Planning Official.
2. Upon finding that a predetermination report is complete and adequate, the Planning Official shall evaluate the report and determine whether an archaeological site is likely to exist.
 - a. Where the Director determines that the existence of an archaeological site is not probable, the application may proceed through the remainder of the development review process.
 - b. Where the Planning Official determines that the existence of an archaeological site is probable, an archaeological resource survey shall be required and carried out in accordance with the provisions of this Chapter.
 - c. Where the Planning Official determines that the existence of an archaeological site is probable and an archaeological resource survey is required, the Planning Official shall notify registered Tribes of such determination in accordance with the provisions of VMC [20.710.150](#). (Ord. M-3922 § 33, 07/06/2009; Ord. M-3643, 01/26/2004)

20.710.080 Archaeological Resource Survey Process.

- A. *Purpose.* The purpose of an archaeological resource survey is to determine whether an archaeological site actually does exist in a disturbance area, and to make a preliminary assessment of the potential significance of such a site. Surveys are to be conducted under the following circumstances:
 1. A survey shall be required when the results of a predetermination indicate further investigation is necessary [VMC [20.710.070\(F\)](#)] and either:
 - a. No previous survey has been done; or
 - b. A previous survey or documentation is determined by the Planning Official to be inadequate ([20.710.050](#)A VMC).
 2. An applicant may choose to provide a survey instead of a required predetermination [VMC [20.710.070\(B\)](#)].
- B. *Survey standards.* Surveys shall include at a minimum the following elements and be carried out according to the following minimum standards:
 1. Surveys shall be performed by a professional archaeologist. Documentation shall be sufficient to allow another archaeologist to repeat the investigation and reach a similar conclusion. Adequacy shall be determined by the Planning Official.

2. Surveys shall be performed in accordance with the best available technology and techniques commonly accepted as standards in the profession of archaeology.
 3. Artifacts may be collected during a survey only after consultation with DAHP.
 4. A thorough review of records, documentation, and other pertinent literature shall be performed.
 5. A systematic, 100% visual inspection of the ground surface shall be completed when conditions yield at least 50% visibility of the soil.
 6. Subsurface probes shall be required for all surveys as follows:
 - a. Subsurface probes shall be no less than 8in/20cm in diameter (12in/30cm or more preferred) at the ground surface, no less than 8in/20cm in diameter at the base, and delve no less than 20in/50cm deep into natural soil deposits whenever possible.
 - b. No less than 4 subsurface probes per acre shall be required. For fractions of an acre, no less than one subsurface probe shall be required for each quarter acre. (For example, on a parcel of 2.33 acres, no less than $(2 \times 4) + 1 = 9$ subsurface probes would be required.)
 - c. The most appropriate locations for the subsurface probes shall be determined by the archaeologist.
 - d. All material excavated by subsurface probes shall be screened using both 1/4-inch and 1/8-inch hardware mesh cloths or equivalent.
- C. *Survey reports.* A report shall be completed for each survey in accordance with VMC [20.710.080\(A\)\(1\)](#) and state guidelines. Survey reports shall be submitted to the Planning Official and filed with DAHP. When an archaeological site is identified, the State of Washington Archaeological Site Inventory form shall be submitted to DAHP with the survey report [VMC [20.710.040\(A\)](#)]
- D. *Review of survey reports and further action.*
1. Survey reports shall be filed with DAHP.
 2. Survey reports shall be reviewed by the Planning Official. Upon finding a survey report complete and adequate, the Planning Official shall determine whether an archaeological site has been identified.
[20.710.070(F)]

3. Where the Planning Official determines that no archaeological site has been identified, the application may proceed through the remainder of the development review process.
 4. Where the Planning Official determines that an archaeological site has been identified, the Planning Official shall determine whether the site is likely to be potentially significant in accordance with the significance criteria of VMC [20.710.080\(E\)](#) and in consultation with DAHP.
 5. Where the Planning Official determines that an archaeological site has been identified and is not likely to be potentially significant, the application may proceed through the remainder of the development review process.
 6. Where the Planning Official determines that an archaeological site has been identified and is likely to be potentially significant, archaeological resources shall be further evaluated, avoided, properly mitigated, or properly recovered in accordance with the Planning Official's recommendation and the terms of any necessary permit from DAHP [VMC [20.710.040\(B\)](#)]. Priority for thorough evaluation and data recovery shall be given to potentially significant archaeological sites. Monitoring and future corrective measures may be required to ensure that an archaeological site is not degraded by a permitted development.
 7. Where sites are to be avoided, the Planning Official shall require that appropriate land use restrictions be recorded using a proper legal instrument.
 8. An escrow or bond shall be required of the applicant to ensure that the site is treated in accordance with the Planning Official's recommendation and provisions of the state permit.
- E. *Significance criteria.* A potential significant archaeological site is a site which (1) contains archaeological objects at a density of at least 100 per cubic meter per stratigraphic or cultural unit; or (2) includes at least one feature; or (3) includes at least one relatively uncommon archaeological object; or (4) contains skeletal remains; or (5) is otherwise considered potentially significant by the archaeologist. (Ord. M-3922 § 34, 07/06/2009; Ord. M-3922 § 32, 07/06/2009; Ord. M-3643, 01/26/2004)

20.710.090 Discovery Principle.

Uncovering archaeological items. In the event that any item of archaeological interest is uncovered during the course of a permitted or approved ground-disturbing action or activity:

- A. *Cessation of activity.* All ground-disturbing activity shall immediately cease.

- B. *Notification.* The applicant shall immediately notify the Planning Official and DAHP.
- C. *Predetermination report and determination.* The applicant shall provide for a predetermination and a predetermination report prepared in accordance with the provisions of this Chapter. The Planning Official shall review the report and issue a determination in accordance with [20.710.070](#)(F) VMC in a reasonably diligent manner, taking into account all pertinent factors and conditions. Where such determination is that the existence of an archaeological site is not probable, construction may continue. Where such determination is that the existence of an archaeological site is probable, the applicant shall provide a survey and survey report, in accordance with the provisions of this Chapter. The Planning Official shall produce a map of the parcel indicating clearly the portion(s) of the parcel, if any, within which construction may continue under the supervision of a professional archaeologist and monitoring by the Planning Official while the required survey is being completed. The provisions of [20.710.080](#)(D) VMC shall apply. (Ord. M-3922 § 35, 07/06/2009; Ord. M-3643, 01/26/2004)

City of Yakima

17.05.010 Archaeological and historic resources.

- A. The city shall require that permits issued in areas documented to contain archaeological resources or located within an area classified as “high risk and/or very high risk” for archaeological resources based on the Washington State Department of Archaeology and Historic Preservation (DAHP) predictive model require a site inspection or evaluation by a professional archaeologist. Auger tests may be required before construction and representatives of DAHP and Yakama Nation may be invited to observe any tests and construction work, and will be provided the results of such tests. If auger or historical data indicate probable presence of cultural resources which may be disturbed by excavation, the city shall meet the shoreline permit applicant and may impose conditions on any shoreline permit to assure that such resources are protected, preserved or collected.
- B. Developers and property owners shall immediately stop work and notify the city, DAHP, and the Yakama Nation if archaeological resources are uncovered during excavation. Following such notification, the city may follow the provisions of subsection C of this section.
- C. Where a professional archaeologist or historian, recognized by the state of Washington, has identified an area or site as having significant value, or where an area or site is listed in national, state or local historical registers, or where the DAHP predictive model identifies the area as having “high risk and/or very high risk” for archaeological resources, the city shall require an evaluation of the resource, and appropriate conditions, which may include preservation and/or retrieval of data, proposal modifications to reduce impacts, or other mitigation authorized through the State Environmental Policy Act, or other local, state, or federal laws. (Ord. 2017-017 § 2 (Exh. B) (part), 2017: Ord. 2015-002 § 1 (Exh. A)(part)).

Archaeology Survey Report Analysis

Total parcels effected

	# of Parcels
Status Quo - Known Archaeological Resources	3,267
Shoreline Areas and DAHP Predictive Model	11,590
DAHP Predictive Model	27,542

Source: AMANDA data

Permits on Parcels 2018 and 2019

	2018	2019	Average
Status Quo - Known Archaeological Resources	73	83	78
Shoreline Areas and DAHP Predictive Model	298	361	329.5
DAHP Predictive Model	789	797	793

Source: AMANDA data

Permits on parcels in known archaeological areas that required review

	2018	2019	Average
% of parcels that required review	16.4%	27.7%	22.1%

Source: AMANDA Data

Estimate cost of archaeological survey \$6,000-\$10,000

Source: This number based on estimate provided by two separate CRM firms, assumption was a 1 acre site

Estimated cost range

	Low Estimate ¹	High Estimate ²
Known Archaeological Resources	\$ 137,746	\$ 624,000
Shoreline Areas and DAHP Predictive Model	\$ 581,886	\$ 2,636,000
DAHP Predictive Model	\$ 1,400,413	\$ 6,344,000

¹Low Estimate - uses the percentage of permits that required staff review under the status quo as a proxy for other scenarios

²High Estimate - every permit on a parcel will require a survey

Recommended Inadvertent Human Remains Discovery Language

In an effort to standardize language as to be consistent with state law, the Department of Archaeology and Historic Preservation offers the following text relating to the inadvertent discovery of human skeletal remains to be used in the development of inadvertent discovery protocols:

Inadvertent Discovery of Human Skeletal Remains on Non-Federal and Non-Tribal Land in the State of Washington (RCWs 68.50.645, 27.44.055, and 68.60.055)

*"If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity **will** cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance until the State provides notice to proceed. The finding of human skeletal remains **will** be reported to the county medical examiner/coroner **and** local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains."*

For more information contact:

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State Physical Anthropologist

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or

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Snohomish County
Planning and Development Services

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Everett, WA 98201-4046
(425) 388-3311
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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 code amendments related to the protection of archaeological resources in unincorporated Snohomish County. Ordinance is titled:

RELATING TO GROWTH MANAGEMENT; AMENDING DEVELOPMENT REGULATIONS IN CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE PERTAINING TO ARCHAEOLOGICAL RESOURCES

Proposed Amendments

This is a non-project proposal to amend Snohomish County Code (SCC) Title 30 to address the regulation of archaeological resources within unincorporated Snohomish County.

Specifically, the proposed code amendments are as follows:

1. SCC 30.32D.010 – Language added to clarify that one of the purposes of this section is to comply with all applicable federal and state laws for archaeological and cultural resources. References to Chapter 68.50 RCW and Chapter 68.60 RCW have been added, as well as to the Washington State Information System for Architectural and Archaeological Records Data (WISAARD).
2. SCC 30.70.200 – Replaces the term “archaeology site report” with “archaeological survey report.” Establishes the requirements for a professional archaeological survey report. Allows the Planning and Development Department director to require an archaeological survey report when information provided by the Tribes, the county archaeologist, or the state archaeologist determines that the project location has a high probability for containing archaeological resources. These changes will increase the protection for archaeological resources through reducing the likelihood of inadvertent discovery of archaeological resources during the construction process.
3. SCC 30.70.210 – Updates language and adds references to requirements under state

law. Removes the 30-day time limit for tribal comment on potential mitigation measures for projects that include archaeological resources that are listed on the state register. These changes better align the code with state law and best tribal coordination practices.

4. SCC 30.70.220 – Changes the procedure for the inadvertent discovery of archaeological resources to align with state law. Removes the discovery of human remains from this section to the new 30.32D.225 Inadvertent discovery of skeletal human remains below.
5. SCC 30.70.225 – A new section that outlines the process for the inadvertent discovery of human remains. This section has been added to conform to RCWs 27.44.055, 68.50.645, and 68.60.055 on the discovery of skeletal human remains.

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 March 22, 2021, 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: Barbara Mock
Position/Title: Director, Department of Planning and Development Services
Address: 3000 Rockefeller Avenue, M/S #604
Everett, WA 98201-4046

Barbara Mock

Barbara Mock (Mar 2, 2021 13:44 PST)

Barbara Mock, Director

For further information, contact Amber Piona, Planning and Development Services, (425) 262-2375 or amber.piona@snoco.org. Please include your full name and mailing address in any email comments.

Archeology Code Project

Index # - File Name: 1.0014 _DNS_ Archaeology_Code_signed.pdf

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Date Published: March 8, 2021

Distribution List: Attached



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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 land use regulations associated with archaeological resources to reflect current law, clarify terminology, and increase protection of archaeological resources.

2. Name of applicant:

Snohomish County, Department of Planning and Development Services

3. Address and phone number of applicant and contact person:

Amber Piona, Project Manager
3000 Rockefeller, M/S 604
Everett, WA 98201
Phone: 425-262-2375
Email: amber.piona@snoco.org

4. Date checklist prepared:

March 1, 2021

5. Agency requesting checklist:

Snohomish County, Department of Planning and Development Services

6. Proposed timing or schedule (including phasing, if applicable):

Planning Commission briefing: March 23, 2021

Planning Commission public hearing: April 27, 2021

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. Site-specific actions may be proposed by public parties in the future, which will be reviewed for compliance with the regulations in effect at the time of application.

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 GMA 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 regulation of archaeological resources within unincorporated Snohomish County. Proposals affecting archaeological resources within unincorporated Snohomish County may be under consideration at any given time.

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.

These proposed code amendments pertain to the regulation of archaeological resources within unincorporated Snohomish County. Specifically, the proposed code amendments are as follows:

1. SCC 30.32D.010 – Language added to clarify that one of the purposes of this section is to comply with all applicable federal and state laws for archaeological and cultural resources. References to Chapter 68.50 RCW and Chapter 68.60 RCW have been added, as well as to the Washington State Information System for Architectural and Archaeological Records Data (WISAARD).
2. SCC 30.70.200 – Replaces the term “archaeology site report” with “archaeological survey report.” Establishes the requirements for a professional archaeological survey report. Allows the Planning and Development Department director to require an archaeological survey report when information provided by the Tribes, the county archaeologist or the state archaeologists determines that the project location has a high probability for containing archaeological resources. These changes will increase the protection for archaeological resources through reducing the likelihood of inadvertent discovery of archaeological resources during the construction process.
3. SCC 30.70.210 – Updates language and adds references to requirements under state law. Removes the 30-day time limit for tribal comment on potential mitigation measures for projects that include archaeological resources that are listed on the state register. These changes better align the code with state law and best tribal coordination practices.
4. SCC 30.70.220 – Changes the procedure for the inadvertent discovery of archaeological resources to align with state law. Removes the discovery of human remains from this section to the new 30.32D.225 inadvertent discovery of skeletal human remains below.
5. SCC 30.70.225 – A new section that outlines the process for the inadvertent discovery of human remains. This section has been added to conform to RCWs 27.44.055, 68.50.645, and 68.60.055 on the discovery of skeletal human remains.

Updates to existing code would bring Snohomish County in line with state laws for the inadvertent discovery of skeletal human remains and protection of graves on private and public lands, as well as update obsolete language and allows Snohomish County to require surveys for projects based on information provided by the Tribes and county and state professional archaeologists.

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 would be applicable to lands located within the unincorporated jurisdiction 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. This non-project proposal will not impact agricultural lands of long-term commercial significance.

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 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 Snohomish 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 Snohomish 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 occur throughout Snohomish 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.**

Numerous land uses occur throughout Snohomish County. This non-project proposal would not change land use designations or zoning, but as a proposed regulatory change related to archaeological resources within unincorporated Snohomish County, it could affect how land use is configured on any given property. 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 to adjacent properties, if any.

- 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?**

This non-project action affects the regulation of archaeological resources within unincorporated Snohomish County, which includes property that may have been, may be or is currently being use as working farmlands or forestlands. However, the proposal has no direct effect on agricultural or forest land use designations.

- 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 non-project action affects the regulation of archaeological resources within unincorporated Snohomish County. Various zoning classifications are found throughout unincorporated Snohomish County.

f. What is the current comprehensive plan designation of the site?

This non-project action affects the regulation of archaeological resources within unincorporated Snohomish County. Various comprehensive plan designations are found throughout unincorporated 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?

There are numerous formal and informal recreational facilities throughout Snohomish County.

b. Would the proposed project displace any existing recreational uses? If so, describe.

This non-project action will not displace any existing recreational uses.

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 resources 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 resources.

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 exists 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 w 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: Amber Piona
Amber Piona, Project Manager
Planner, Planning and Development Services

Date Submitted: March 1, 2021

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 affect the regulation of archaeological resources within unincorporated Snohomish County and will not likely be a direct effect to the production, storage, or release of toxic or hazardous substances.

Proposed measures to avoid or reduce such increases are:

This non-project action does not propose change to any existing regulations for noise, and any development projects will be required to meet all applicable regulations. This proposal is not likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances. 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?

This non-project proposal affects the regulation of archaeological resources and 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. Future site-specific land activity will be required to meet all relevant development regulations, including open space, landscaping, and tree canopy regulations, which help to protect and conserve plants and habitat.

3. How would the proposal be likely to deplete energy or natural resources?

The proposal affects the regulation of archaeological resources in unincorporated Snohomish County and 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 proposed code amendments are consistent with shoreline and land use regulations, so measures to reduce impacts are not applicable. 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 or 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

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 code amendments related to the protection of archaeological resources in unincorporated Snohomish County. Ordinance is titled:

**RELATING TO GROWTH MANAGEMENT; AMENDING DEVELOPMENT
REGULATIONS IN CHAPTER 30.32D OF THE SNOHOMISH COUNTY CODE
PERTAINING TO ARCHAEOLOGICAL RESOURCES**

Proposed Amendments

This is a non-project proposal to amend Snohomish County Code (SCC) Title 30 to address the regulation of archaeological resources within unincorporated Snohomish County.

Specifically, the proposed code amendments are as follows:

1. SCC 30.32D.010 – Language added to clarify that one of the purposes of this section is to comply with all applicable federal and state laws for archaeological and cultural resources. References to Chapter 68.50 RCW and Chapter 68.60 RCW have been added, as well as to the Washington State Information System for Architectural and Archaeological Records Data (WISAARD).
2. SCC 30.70.200 – Replaces the term “archaeology site report” with “archaeological survey report.” Establishes the requirements for a professional archaeological survey report. Allows the Planning and Development Department director to require an archaeological survey report when information provided by the Tribes, the county archaeologist, or the state archaeologist determines that the project location has a high probability for containing archaeological resources. These changes will increase the protection for archaeological resources through reducing the likelihood of inadvertent discovery of archaeological resources during the construction process.
3. SCC 30.70.210 – Updates language and adds references to requirements under state

law. Removes the 30-day time limit for tribal comment on potential mitigation measures for projects that include archaeological resources that are listed on the state register. These changes better align the code with state law and best tribal coordination practices.

4. SCC 30.70.220 – Changes the procedure for the inadvertent discovery of archaeological resources to align with state law. Removes the discovery of human remains from this section to the new 30.32D.225 Inadvertent discovery of skeletal human remains below.
5. SCC 30.70.225 – A new section that outlines the process for the inadvertent discovery of human remains. This section has been added to conform to RCWs 27.44.055, 68.50.645, and 68.60.055 on the discovery of skeletal human remains.

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 March 22, 2021, 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: Barbara Mock
Position/Title: Director, Department of Planning and Development Services
Address: 3000 Rockefeller Avenue, M/S #604
Everett, WA 98201-4046

Barbara Mock

Barbara Mock (Mar 2, 2021 13:44 PST)

Barbara Mock, Director

For further information, contact Amber Piona, Planning and Development Services, (425) 262-2375 or amber.piona@snoco.org. Please include your full name and mailing address in any email comments.

Archeology Code Project

Index # - File Name: 1.0015_DNS_for_Herald.pdf

Date Issued: March 8, 2021

Date Published: March 8, 2021

Distribution List: Attached

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 address the protection of archaeological resources in unincorporated Snohomish County. The proposed code amendments will amend Chapter 30.32D SCC to reflect changes in state laws for the inadvertent discovery of skeletal human remains and protection of graves on private and public lands, as well as update obsolete language and allows Snohomish County to require surveys for projects based on information provided by the Tribes, the county archaeologist, or state professional archaeologists.

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: March 8, 2021

Contact: Amber Piona, Planner, (425) 262-2375, or amber.piona@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., March 22, 2021, 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://www.snohomishcountywa.gov/DocumentCenter/View/77410/>

Piona, Amber

From: Piona, Amber
Sent: Wednesday, January 27, 2021 9:31 AM
To: Gold Julia (jgold@tulaliptribes-nsn.gov)
Cc: Kaehler, Gretchen
Subject: RE: Tulalip Tribes - Follow-up
Attachments: Track Changes to 30.32D_12082020.docx; 20_104 Proposed changes.docx

Julia,

You had expressed interest in Snohomish County's archaeology code project. PDS is currently working on an update to SCC 30.32D Historic and Archaeological Resources, which will allow the code to align with state laws, update terminology and clarify language, and increase protection for archaeological resources. In the current code, the director is not able to require an archaeological survey for a project even when the county and state archaeologists or the Tribes provide information that the site has a high probability to contain archaeological resources. The proposed changes give the director the option to require an archaeological survey based on such information. The draft changes are attached.

There will be an informational briefing on archaeological resources at the February Planning Commission meeting, the briefing on the code project itself is scheduled for March, hearing tentatively scheduled for April.

If you would like, the County Archaeologist Gretchen Kaehler (CC'd above) and I would be happy to schedule a meeting with you to discuss the project further.

Thanks!

Amber Piona, AICP (*she/her*) | *Planner*
[Snohomish County Planning and Development Services](#)
3000 Rockefeller Avenue M/S 604 | Everett, WA 98201
425-262-2375 | amber.piona@snoco.org

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)

From: Mock, Barb <Barbara.Mock@co.snohomish.wa.us>
Sent: Tuesday, January 26, 2021 8:27 AM
To: Brouse, Mitchell <Mitchell.Brouse@co.snohomish.wa.us>; Piona, Amber <Amber.Piona@co.snohomish.wa.us>
Cc: Gold Julia (jgold@tulaliptribes-nsn.gov) <jgold@tulaliptribes-nsn.gov>
Subject: Tulalip Tribes - Follow-up

Good morning Mitchell and Amber,

I was remiss in following up with you and providing contact information for Julia Gold at the Tulalip Tribes Planning Department. I thought I had sent an email but I realized when I met with Amber last week I had not. My apologies!

So let me introduce you now. Julia's phone number is 360-631-2655 and her email is above.

Mitchell's contact information is



Mitchell, would you please schedule time with Julia to brief her on the relevant CPP's and coordinate on the Tribal policies we are required to draft for the implementation of Vision 2050?

Amber's contact information is



Amber would you please reach out to Julia to offer a briefing on the Archeology Code Amendments that will be going to Planning Commission soon?

Thanks everybody and I sorry I didn't do this sooner. Putting this on a list didn't get it done.

By the way, for scheduling purposes I don't necessarily need to attend your briefings. However, if you would like me there I'm always happy to send time with all of you!

Have a fabulous day!

B

Barbara Mock | Director

[Planning and Development Services](#)

3000 Rockefeller Ave., M/S 604 | Everett, WA 98201-4046

O: 425-388-3661 | barbara.mock@snoco.org

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Piona, Amber

From: Julia Gold <jgold@tulaliptribes-nsn.gov>
Sent: Sunday, January 31, 2021 2:22 PM
To: Piona, Amber
Cc: Kaehler, Gretchen
Subject: RE: Tulalip Tribes - Follow-up

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hi Amber,

Thank you so much for this overview, schedule and invitation to discuss. I will be looking it over and talking to Richard Young. If we have questions and comments I will be sure to get in touch with you.

Have a wonderful weekend,

Julia

Julia Gold
Planning Manager
Tulalip Tribes
6406 Marine Drive
Tulalip, WA 98271

360-716-4210 Office
360-631-2655 Mobile

From: Piona, Amber <Amber.Piona@co.snohomish.wa.us>
Sent: Wednesday, January 27, 2021 9:31 AM
To: Julia Gold <jgold@tulaliptribes-nsn.gov>
Cc: Kaehler, Gretchen <Gretchen.Kaehler@co.snohomish.wa.us>
Subject: RE: Tulalip Tribes - Follow-up

Julia,

You had expressed interest in Snohomish County's archaeology code project. PDS is currently working on an update to SCC 30.32D Historic and Archaeological Resources, which will allow the code to align with state laws, update terminology and clarify language, and increase protection for archaeological resources. In the current code, the director is not able to require an archaeological survey for a project even when the county and state archaeologists or the Tribes provide information that the site has a high probability to contain archaeological resources. The proposed changes give the director the option to require an archaeological survey based on such information. The draft changes are attached.

There will be an informational briefing on archaeological resources at the February Planning Commission meeting, the briefing on the code project itself is scheduled for March, hearing tentatively scheduled for April.

If you would like, the County Archaeologist Gretchen Kaehler (CC'd above) and I would be happy to schedule a meeting with you to discuss the project further.

Thanks!

Archeology Code Project

Index # - File Name: 1.0018_01-31-2021-Julia_Gold_email_to_PDS-Tulalip_Follow-up.pdf

Amber Piona, AICP (she/her) | Planner

[Snohomish County Planning and Development Services](#)

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

425-262-2375 | amber.piona@snoco.org

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From: Mock, Barb <Barbara.Mock@co.snohomish.wa.us>

Sent: Tuesday, January 26, 2021 8:27 AM

To: Brouse, Mitchell <Mitchell.Brouse@co.snohomish.wa.us>; Piona, Amber <Amber.Piona@co.snohomish.wa.us>

Cc: Gold Julia (jgold@tulaliptribes-nsn.gov) <jgold@tulaliptribes-nsn.gov>

Subject: Tulalip Tribes - Follow-up

Good morning Mitchell and Amber,

I was remiss in following up with you and providing contact information for Julia Gold at the Tulalip Tribes Planning Department. I thought I had sent an email but I realized when I met with Amber last week I had not. My apologies!

So let me introduce you now. Julia's phone number is 360-631-2655 and her email is above.

Mitchell's contact information is



Mitchell, would you please schedule time with Julia to brief her on the relevant CPP's and coordinate on the Tribal policies we are required to draft for the implementation of Vision 2050?

Amber's contact information is



Amber would you please reach out to Julia to offer a briefing on the Archeology Code Amendments that will be going to Planning Commission soon?

Thanks everybody and I sorry I didn't do this sooner. Putting this on a list didn't get it done.

Archeology Code Project

Index # File Name: 10018_01-31-2021-Julia-Gold_email_to_PDS-Tidal-in-Follow-up.pdf
By the way, for scheduling purposes I don't necessarily need to attend your briefings. However, if you would like me there I'm always happy to send time with all of you!

Have a fabulous day!

B

Barbara Mock | Director

[Planning and Development Services](#)

3000 Rockefeller Ave., M/S 604 | Everett, WA 98201-4046

O: 425-388-3661 | barbara.mock@snoco.org

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).

Piona, Amber

From: Rooslet, Leah
Sent: Thursday, February 18, 2021 3:38 PM
To: Piona, Amber
Subject: RE: Proposed Snohomish County Code Changes - Inadvertent discovery of human remains

Thank you. I forwarded your email to our Chief Medical Investigator Robert Karinen.

From: Piona, Amber <Amber.Piona@co.snohomish.wa.us>
Sent: Thursday, February 18, 2021 3:31 PM
To: Rooslet, Leah <Leah.Rooslet@co.snohomish.wa.us>
Subject: Proposed Snohomish County Code Changes - Inadvertent discovery of human remains

Leah,

My name is Amber Piona, I am a long range planner in Planning and Development Services department (PDS). PDS is currently working with the County Archaeologist Gretchen Kaehler on a proposal to amend the Snohomish County Code chapter 30.32D Historic and Archaeological Resources.

I am reaching out to the Medical Examiner's Office because we are proposing to add a new section of code regarding the inadvertent discovery of human remains. The amendment, if passed, would not result in any changes to your current procedures. We are amending our code to reflect current practices (this chapter of the code was previously amended prior to the 2008 changes to state law regarding the procedure for the inadvertent discovery of skeletal human remains). Attached you will find the proposed code amendment. The section that relates to your office, 30.32D.225 Inadvertent discovery of human remains is highlighted.

If you have any comments or questions, please feel free to contact me.

Amber Piona, AICP (she/her) | Planner
[Snohomish County Planning and Development Services](#)
3000 Rockefeller Avenue M/S 604 | Everett, WA 98201
425-262-2375 | amber.piona@snoco.org

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Piona, Amber

From: Larsen, Kirsten (COM) <kirsten.larsen@commerce.wa.gov>
Sent: Thursday, April 15, 2021 10:12 AM
To: Piona, Amber
Subject: RE: 60-day Notice of Intent to Adopt Amendment - Submittal ID 2021-S-2394

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hi Amber,

Thank you for looking at that so quickly. The final letter will be sent to you later today. I also coordinated with DAHP and they prepared their own letter that will be sent with ours.

Kirsten

From: Piona, Amber <Amber.Piona@co.snohomish.wa.us>
Sent: Thursday, April 15, 2021 7:20 AM
To: Larsen, Kirsten (COM) <kirsten.larsen@commerce.wa.gov>
Subject: RE: 60-day Notice of Intent to Adopt Amendment - Submittal ID 2021-S-2394

External Email

Kirsten,

That looks great, thank you!

Amber Piona, AICP (she/her) | Planner
[Snohomish County Planning and Development Services](#)
3000 Rockefeller Avenue M/S 604 | Everett, WA 98201
425-262-2375 | amber.piona@snoco.org

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)

From: Larsen, Kirsten (COM) <kirsten.larsen@commerce.wa.gov>
Sent: Wednesday, April 14, 2021 4:08 PM
To: Piona, Amber <Amber.Piona@co.snohomish.wa.us>
Subject: RE: 60-day Notice of Intent to Adopt Amendment - Submittal ID 2021-S-2394

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hi Amber,

Attached is my draft letter. Please let me know if this needs any correction or there is any concern. If not, I can get it signed and sent out to you.

Thank you,

Kirsten

From: Piona, Amber <Amber.Piona@co.snohomish.wa.us>
Sent: Thursday, April 1, 2021 3:12 PM
To: Larsen, Kirsten (COM) <kirsten.larsen@commerce.wa.gov>
Subject: RE: 60-day Notice of Intent to Adopt Amendment - Submittal ID 2021-S-2394

External Email

If we could get it by April the 16th that would be great.

Thanks!

Amber Piona, AICP (*she/her*) | *Planner*
[Snohomish County Planning and Development Services](#)
3000 Rockefeller Avenue M/S 604 | Everett, WA 98201
425-262-2375 | amber.piona@snoco.org

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From: Larsen, Kirsten (COM) <kirsten.larsen@commerce.wa.gov>
Sent: Thursday, April 1, 2021 2:37 PM
To: Piona, Amber <Amber.Piona@co.snohomish.wa.us>
Subject: RE: 60-day Notice of Intent to Adopt Amendment - Submittal ID 2021-S-2394

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hi Amber,
I will start working on that. When do you send out your commission packets?
Kirsten

From: Piona, Amber <Amber.Piona@co.snohomish.wa.us>
Sent: Thursday, April 1, 2021 2:31 PM
To: Larsen, Kirsten (COM) <kirsten.larsen@commerce.wa.gov>
Subject: RE: 60-day Notice of Intent to Adopt Amendment - Submittal ID 2021-S-2394

External Email

Kirsten,

Thank you for the nice words! We would be very appreciative of a letter of support ahead of our Planning Commission hearing on April 27th, which if emailed to me, I'd be sure to have sent around to our commissioners for their consideration.

Thanks!

Amber Piona, AICP (she/her) | Planner

[Snohomish County Planning and Development Services](#)

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

425-262-2375 | amber.piona@snoco.org

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)

From: Larsen, Kirsten (COM) <kirsten.larsen@commerce.wa.gov>

Sent: Tuesday, March 30, 2021 1:17 PM

To: Piona, Amber <Amber.Piona@co.snohomish.wa.us>

Subject: 60-day Notice of Intent to Adopt Amendment - Submittal ID 2021-S-2394

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hi Amber,

This is email is to follow-up my voicemail I just left. I wanted to commend you on the good work and see if the state can provide any support in adoption of these amendments. Feel free to reach out to me in either email or at the number listed below.

Thank you,

Kirsten

Kirsten Larsen, AICP | SENIOR PLANNER

Growth Management Services | Washington State Department of Commerce

1011 Plum Street SE

Olympia, WA 98504

Phone: 360-280-0320

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Email communications with state employees are public records and may be subject to disclosure, pursuant to Ch. 42.56 RCW



STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

DRAFT LETTER

04/12/2021

Ms. Amber Piona
Planner
Snohomish County
3000 Rockefeller Ave.
Everett, WA 98201

Sent Via Electronic Mail

Re: Snohomish County's 60-day Notice of Intent to Adopt Amendment – Proposed Code Update for Archaeological Resources

Dear Ms. Piona:

Thank you for the opportunity to comment on the proposed changes to Snohomish County's code for archaeological resources. We appreciate your coordination with our agency as you work to achieve the community's vision consistent with the goals and requirements of the Growth Management Act (GMA). We commend the County for proactively reviewing and amending their code to ensure consistency with state law as it relates to historic and archeologic resources. Specifically the proposed amendments would:

- Aid the County in being consistent and compliant with state law, as well as ensure that the Tribes are able to adequately comment and provide mitigation measures for project which may impact archeological resources.
- Update the code language to be consistent the Revised Code of Washington (RCW) and the current database used by the WA Department of Archeology and Historic Preservation (DAHP). The standardizing of language throughout the code will ensure clarity for staff, applicants, and commenting parties.
- Allow the County greater flexibility in protecting archeological resources and preventing inadvertent discoveries. This will provide applicants greater protection against delays to their projects that could be avoided with a survey.

Congratulations to the staff for the good work these amendments represent. If you have any questions or need technical assistance, please feel free to contact me at kirsten.larsen@commerce.wa.gov or (360) 280-0320.

Sincerely,

Archeology State Project

Index # - Senior Planner 1-0021_Attachment_Draft_Comment-Letter-2021-S-2394.pdf

Growth Management Services

cc:

David Andersen, AICP, Managing Director, Growth Management Services

Steve Roberge, Deputy Managing Director, Growth Management Services

Ben Serr, AICP, Eastern Region Manager, Growth Management Services

Piona, Amber

From: Kaehler, Gretchen
Sent: Monday, January 4, 2021 1:32 PM
To: tomwooten@samishtribe.nsn.us
Cc: Jackie Ferry (jferry@samishtribe.nsn.us); Harper, Lacey
Subject: FW: Snohomish County Code changes to 30.32.D for Historic and Archaeological Resources
Attachments: Track Changes to 30.32D_12082020.docx; Proposed changes to 30.32D Historic and Archaeological Resources.docx

Dear Chairman Wooten,

Snohomish County is proposing code changes to Chapter 30.32D Historic 30.32D Historic and Archaeological Resources in order to comply with new state laws and to clarify language and intent. Snohomish County is also committed to being proactive in regard to early identification of archaeological resources and sites. The code change are proposed to:

- Update code language to align with updated state laws for human skeletal remains and abandoned cemeteries
- Update language to clarify and align with state and professional terminology
- Provide flexibility for the county to be able to require professional archaeological surveys

I have provided two attachments. One shows the changes that were made to the original code, Track Changes to 30.32D, and the other is the proposed code changes and rationale for changes. Please feel free to contact me if you have any questions. We appreciate any comments you may have on the code changes by January 31, 2021.

Respectfully

Gretchen

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ODRAFT

**Chapter 30.32D
HISTORIC AND ARCHAEOLOGICAL RESOURCES**

Sections:

30.32D.010	Purpose and applicability.
30.32D.020	Creation of county register of historic places.
30.32D.030	Designation of property on county register.
30.32D.040	Criteria for designation of property on county register.
30.32D.050	Removal of properties from county register.
30.32D.060	Alteration or demolition of property on county register.
30.32D.070	Procedure for obtaining certificate of appropriateness or waiver.
30.32D.075	Exemptions.
30.32D.080	Review process for request for certificate of appropriateness.
30.32D.090	Review process for waiver of certificate of appropriateness.
30.32D.100	Applicability of zoning requirements.
30.32D.200	Archaeology site <u>Archaeological survey</u> report.
30.32D.210	Project or permit approval for property on state register as an archaeological resource.
30.32D.220	Human remains or archaeological resources found on a site.
30.32D.300	Appeals.

30.32D.010 Purpose and applicability.

(1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to

- (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history;
- (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history;
- (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts;

(d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and

(e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects.

(f) Comply with all federal and state laws related to regulation of archaeological and cultural sites.

(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws on both public and private lands. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; ~~and~~ Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."

(3) This chapter applies to:

(a) Properties eligible for and on the Snohomish ~~county~~ County Register of Historic Places established pursuant to SCC 30.32D.020; and

(b) Properties ~~listed-recorded~~ on the Washington ~~State Archaeological Site Inventory Information System for Architectural and Archaeological Records Data (WISAARD)~~.

(4) Regulations concerning the Snohomish County Historic Preservation Commission are in chapter 2.96 SCC; regulations concerning the state tax incentive program for qualifying historic properties are located in chapter 4.31 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.020 Creation of county register of historic places.

There is hereby established a Snohomish county register of historic places that identifies historic buildings, sites, structures, objects, and districts within the county. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.030 Designation of property on county register.

- (1) Listing on the county register is an honorary designation denoting significant association with the historic, architectural, archaeological, engineering, or cultural heritage of the community. Property is listed individually or as properties that as a group contribute to the historical integrity of an historic district.
- (2) The historic preservation commission, as established in Title 2 SCC, or any person may nominate a building, site, structure, object, or district for placement on the county register by submitting a letter to the historic preservation commission.
- (3) The county shall make a written recommendation to the historic preservation commission regarding the nomination and notify the property owner of the nomination, if necessary. If the property owner consents to the nomination, the department shall schedule a public meeting before the historic preservation commission to consider the nomination. The county shall publish notice of the public meeting in accordance with SCC 30.70.045 and provide mailed notice to the property owner, occupant, and nominator.
- (4) The historic preservation commission shall consider the nomination at the public meeting. If the commission finds that the nominated property meets the criteria for designation established in SCC 30.32D.040, the commission shall designate the property on the county register. If the property is so designated by the commission, the department shall indicate the designation on county zoning maps by placing "HR" on the property.
- (5) The county shall provide notice of the historic preservation commission's decision as required in SCC 30.32D.030. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 12-018, May 2, 2012, Eff date May 21, 2012).

30.32D.040 Criteria for designation of property on county register.

- (1) The historic preservation commission may designate a property or properties on the county register only if the building, site, structure, object, or district is at least fifty years old or, in the event that the property is of exceptional historical significance as determined by the commission, at least forty years old.
- (2) The commission will also consider whether the nominated property or properties:

- (a) Possess significant and important association with the history, architecture, archaeology, engineering, or cultural heritage of the county as documented in texts used as standard references by professionals in these disciplines;
- (b) Possess one or more of the following:
 - (i) integrity of location, meaning the building, structure or object has remained on the same site for fifty years or more;
 - (ii) integrity of design, meaning the design of the building, structure, object, or the structures contributing to a district have remained unchanged for fifty years or more;
 - (iii) integrity of materials, meaning the materials used in the building, object or structure are either original or have been reproduced to replicate, as closely as possible, the original materials; or
 - (iv) integrity of workmanship, meaning the building must exhibit original workmanship, or if repairs or reconstruction of a building, structure, site or object have been or need to be carried out, the methods used are as similar to the original construction methods as possible. If modern construction methods were used, the resulting repair or reconstruction must replicate the original workmanship as closely as possible;
- (c) Meet at least one of the following criteria:
 - (i) the property is associated with events that made an important contribution to national, state, or local history;
 - (ii) the property embodies architectural characteristics of a distinctive and defined type, period, style, or method of design or construction, as documented in professional architectural and historic preservation publications, or represents a significant and distinguishable entity whose components may lack individual distinction;
 - (iii) the property is an outstanding work of a recognized designer, builder, or architect whose work has been documented in professional publications as having made a substantial contribution to the artistic and aesthetic values of the community;
 - (iv) the property exemplifies or reflects elements of Snohomish county's cultural, social, economic, political, aesthetic, engineering or architectural history;
 - (v) the property is associated with the life of a person of documented importance in national, state, or local history;

- (vi) the property yields or is likely to yield important archaeological information related to history or prehistory;
- (vii) the property contains a building or structure removed from its original location but which has significant and documented architectural value, or which is the only surviving building or structure associated with an historic person or event;
- (viii) the property is a birthplace or grave of an historical figure of documented importance which is the only surviving building, structure or site associated with that person;
- (ix) the property is a cemetery which derives its primary significance from age, design features, or association with historic events or cultural patterns;
- (x) the property contains a building that has been reconstructed in an historically accurate manner on the original site; or
- (xi) the property is an example of folk architecture and design that is creative and unique, but which does not fit into formal architectural or historical categories. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.050 Removal of properties from county register.

- (1) Initiation of removal of a property from the local register may occur in one of the following ways:
 - (a) A property owner may request review of a property for removal from the local register by submitting a written request to the historic preservation commission; or
 - (b) The historic preservation commission may initiate removal.
- (2) The historic preservation commission will schedule a public meeting for consideration of removal of any property from the local register. If removal is requested by the property owner, the commission must schedule the public meeting within 30 days of receipt of the request for removal. The department shall provide notice of the public meeting in accordance with SCC 30.32D.030(3).
- (3) If the property owner has requested removal, the property owner must notify the historic preservation commission within one week of the conclusion of the public meeting that
 - (a) The property will be removed from the local register; or

(b) The property owner rescinds the removal request.

Failure by the property owner to so notify the historic preservation commission will result in the property remaining on the register.

(4) The historic preservation commission may remove property from the local register without the owner's consent if alterations to the property result in loss of historical integrity. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.060 Alteration or demolition of property on county register.

(1) An owner of property listed on the local register who proposes any physical alteration or rehabilitation of the exterior of a register property, or of interior features that are listed as contributing to the significance of the property, excluding ordinary repair, maintenance and emergency repairs, must request and receive a certificate of appropriateness from the historic preservation commission for the proposed work. If a building permit is required pursuant to subtitle 30.5 SCC for the work, issuance of a certificate of appropriateness will be a precondition to issuance of a building permit.

(2) An owner who proposes to partially or completely demolish a register property must request and receive from the historic preservation commission a waiver of a certificate of appropriateness as a precondition to issuance of a permit for demolition. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.070 Procedure for obtaining certificate of appropriateness or waiver.

(1) The applicant for a permit to perform any work described in SCC 30.32D.060 shall submit a copy of the building permit or demolition permit application to the historic preservation commission along with a request to be considered for a certificate of appropriateness or waiver.

(2) The commission shall consider a request for a certificate of appropriateness or waiver at a public meeting. The department shall publish notice of the meeting as required in SCC 30.70.045 and provide mailed notice to the applicant and the property owner.

(3) The department shall not issue a building permit or a demolition permit for a property listed on the local register until a certificate of appropriateness or waiver is issued. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.075 Exemptions.

Ordinary repair and maintenance and emergency repair do not require a certificate of appropriateness or review by the historic preservation commission. For purposes of this chapter, ordinary repair and maintenance means work for which no county permit is required by law, and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, the real property or structure and appurtenances thereto, and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage. For purposes of this chapter, emergency repair means work necessary to prevent destruction or disrepair to real property immediately threatened or damaged by fire, flood, earthquake, vandalism or other disaster. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.080 Review process for request for certificate of appropriateness.

(1) An applicant must include within a request for a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule. Information required by the commission will include information responding to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, referred to in WAC 254-20-100 and used by the Washington State Advisory Council on Historic Preservation and by the commission. A copy of the standards is available at the department front counter.

(2) When responding to a request for a certificate of appropriateness, the historic preservation commission shall review all features of the property that are proposed for alteration and that are listed as contributing to the property's designation on the local register nomination form.

(3) The commission shall meet with the applicant and review the proposed work according to the design review criteria established by administrative rule.

(4) The commission shall complete its review and make its recommendation within forty-five days of the date of receipt of the application. If necessary, the commission may extend the review period for up to an additional twenty days. If no recommendation has been made within sixty-five days, the commission is considered to have recommended approval.

- (5) The commission will provide the applicant with its written recommendation, stating the findings of fact and conclusions leading to the recommendation. Any conditions agreed to by the applicant in the review process and accepted by the commission shall become conditions of approval for any relevant permit granted and be incorporated in the commission's decision to grant a certificate of appropriateness.
- (6) If the applicant agrees to the commission's recommendation, the commission shall issue a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (7) If the applicant does not agree to the commission's recommendation and any alteration to the property is determined to be inappropriate by the commission, the property may be removed by the commission from the local register. Once the property is removed from the local register, the requirement of SCC 30.32D.060(1) shall no longer apply. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.090 Review process for waiver of certificate of appropriateness.

- (1) An applicant must include within a request for a waiver of a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule.
- (2) The commission shall review the request for a waiver in accordance with the commission's administrative rules. The commission shall consider whether there is any feasible alternative to the demolition proposed.
- (3) Following review of the request, the commission shall issue a waiver of a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (4) As a part of the issuance of the waiver, the commission may recommend to the building official that the applicant mitigate the demolition of register property. The commission shall support any recommended requirement of mitigation with findings of fact and conclusions. Mitigation may include, but is not limited to, an identification plaque, use of an architectural element of an historic building in new construction, and/or buffering or protection of remaining elements of an historic resource. The building official shall adopt a commission recommendation for mitigation as a condition of approval of any permit granted for partial or complete demolition of the property.
- (5) After the property is partially or completely demolished, the commission shall remove the property from the local register. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.100 Applicability of zoning requirements.

Properties designated on the local register shall be subject to the provisions set forth in this title. Nothing contained in this chapter shall be construed as repealing, modifying, or waiving any other provision of this title. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.200 ~~Archaeology site~~ Archaeological Survey report.

- (1) Known archaeological sites are recorded on ~~the Washington State Department of Archaeology and Historic Preservation's Geographic Information System~~ WISAARD and or information from datasharing agreements with DAHP.
- (2) An archaeological site may cover only a portion of a property, parcel, or lot and may ~~be located on~~ extend onto more than one property, parcel, or lot.
- (3) Completion of ~~an archaeology site report~~ a professional archaeology survey or ~~relocation of the project to avoid the known archaeological site shall be required for:~~
 - (a) ~~Shall be required for~~ Anyany construction, earth movement, clearing, or other siteland disturbance of a known archaeological site;
 - (b) ~~Shall be required for~~ Anyany development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map.
 - (c) May be required for any development application when ~~Information~~ information provided by Tribes or County and/or state professional archaeologists indicates that the project location has a high probability for containing archaeological resources.
- (4) ~~An archaeology site report~~ A professional archaeological survey required under subsection (3)(a) of this section shall:
 - (a) Be written by a professional archaeologist as defined in WAC 25-48-020 RCW 27.53.030(11);
 - (b) Be submitted to the department by the property owner or project proponent;
 - (c) Include the location, ~~condition,~~ and extent of the archaeological resources located on site ~~and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and~~

(d) Include the results of consultation with affected Indian ~~tribes on proposed actions to avoid or mitigate impacts of the proposed project.~~ tribes;

(e) Meet state and professional standards for cultural resources reporting; and

(f) Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.

(5) A professional archaeological survey report required under subsection (3)(b) or (3)(c) of this section shall:

(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);

(b) Be submitted to the department by the property owner or project proponent;

(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and

(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.

~~(5)(6) The department shall provide a copy of the archaeological site archaeological survey report to any affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, DAHP, at the applicant's expense.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007; Amended by Amended Ord. 15-027, May 6, 2015, Eff date May 24, 2015).

30.32D.210 Project or permit approval for property on state register as an archaeological resource.

(1) The ~~county approving authority~~ director shall not issue a permit for any development activity or project approval requiring ~~an archaeology site professional archeological survey~~ report pursuant to SCC 30.32D.200 without considering the ~~archaeology site professional archeological survey~~ report and any comments on the report submitted by an affected Indian tribe and any additional archaeological work and permitting required under Chapter 27.53 RCW.

~~(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides documentation of the request for tribal comments to the department.~~

~~(2)(3) Based on the information contained in the archaeology site professional archeological survey report and any comments submitted by the affected Indian tribe(s) obtained during the consultation review process, the county approving authority director will condition the permit or project approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.220 ~~Human remains or~~ Inadvertent discovery of archaeological resources ~~found on a site.~~

(1) If, during the course of construction, earth movement, clearing, or other ~~site land~~ disturbance, ~~human remains or~~ archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the ~~department director~~ may issue a stop work order pursuant to chapter 30.85 SCC.

(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the ~~state office of archaeology and historic preservation~~ Washington State Department of Archaeology and Historic Preservation (DAHP).

(3) ~~After~~ Ground disturbance may not proceed until consultation with any affected Indian tribe and the ~~state office of archaeology and historic preservation DAHP is completed.~~, the state shall ~~determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within the site as a preservation area. No ground disturbance is permitted within a preservation area. This designation shall not affect underlying zoning.~~

(4) Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. ~~The preservation area designation shall remain on the appropriate area within a site until~~

~~(a) The human remains or archaeological resources have been completely removed from the site; or~~

~~(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.225 Inadvertent discovery of human remains.

(1) If, during the course of construction, earth movement, clearing, or other site disturbance, human remains are encountered, all work shall cease immediately in an area large enough to protect find.

(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.

(3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.

(4) The property owner shall also promptly notify the DAHP, the director, and the Snohomish County Archaeologist. Under these circumstances, the director may issue a stop work order pursuant to chapter 30.85 SCC.

(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.

30.32D.300 Appeals.

Any building permit issued with conditions imposed pursuant to this chapter may be appealed as a Type 1 decision pursuant to chapter 30.71 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

The Snohomish County Code is current through legislation passed October 3, 2018.

Disclaimer: The Clerk of the Council's Office retains the official version of the Snohomish County Code. The web version is updated as new ordinances become effective, and includes new ordinances through 18-053. New ordinances do not necessarily become effective in chronological or numerical order. Users should contact the Clerk of the Council's Office for information on legislation not yet reflected in the web version.

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Proposed Changes 30.32D

Code Section	Proposed Change	Rationale	Comments
<p>30.32D.010 Purpose and Applicability</p>	<p>30.32.D.010 Purpose and applicability. (1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to: (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history; (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history; (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts; (d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and (e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects; and (f) <u>Comply with all federal and state laws related to regulation of archaeological and cultural sites.</u></p>	<p>Language proposed to be added to clarify that one of the purposes of this section is comply with federal and state law for archaeological and cultural sites.</p>	
	<p>(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws <u>on both public and private lands</u>. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; and Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."</p>	<p>HB 2624 (2008) establishes that Native American grave sites are protected on both public and private lands. Proposed change to reflect state regulation. Additionally, HB 2624 changed several sections of the Revised Code of Washington, and SCC 30.32D(2) now includes references to the RCW sections on Human Remains and Abandoned and Historic Cemeteries and Historic Graves.</p>	
	<p>(3) This chapter applies to: (a) Properties eligible for and on the Snohomish county <u>County</u> Register of Historic Places established pursuant to SCC30.32D.020; and (b) Properties listed <u>recorded</u> on the Washington State Archaeological Site Inventory <u>Information System for Architectural and Archaeological Records Data (WISAARD)</u>.</p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation (DAHP)'s database and language changed to clarify that information is recorded not listed in the database.</p>	

Archeology Code Project

<p>Index # 30.32D.200 File Name: 30.32D.200 Archaeology site Survey report. Attachment - draft changes Chpt3032D.pdf Archaeological Survey Report</p>	<p>(1) Known archaeological sites are recorded on the Washington State Department of Archaeology and Historic Preservation's Geographic Information System WISAARD and or information from <u>data sharing agreements with DAHP.</u></p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation(DAHP)'s database and to reference the data sharing agreement that the county has with DAHP.</p>	
	<p>(2) An archaeological site may cover only a portion of a property, parcel, or lot and may be located on <u>extend onto</u> more than one property, parcel or lot.</p>	<p>Proposed change for clarity.</p>	
	<p>(3) Completion of an archaeology site report <u>a professional archaeological survey or relocation of the property to avoid the known archaeological site shall be required for:</u> (a) Shall be required for any construction, earth movement, clearing or other site <u>land</u> disturbance of a known archaeological site; (b) Shall be required for any development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map; (c) May be required for any development application when information provided by Tribes or County and/or State professional archaeologists indicates that the project location has a high probability for containing archaeological resources.</p>	<p>Proposed change to introduce a third situation in which archaeological survey reports may be required, based on information provided by County and/or State professional archaeologists that the location has a high probability for containing archaeological resources.</p>	
	<p>(4) An archaeology site report <u>A professional archaeological survey</u> required under subsection (3)(a) of this section shall: (a) Be written by a professional archaeologist as defined in WAC 25.48.020 <u>RCW 27.53.030(11)</u>; (b) Be submitted to the department by the property owner or project proponent; (c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and (d) Include the results of consultation with affected Indian tribe on proposed actions to avoid or mitigate impacts of the proposed project tribes; <u>(e) Meet state and professional standards for cultural resources reporting; and</u> <u>(f) Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.</u></p>	<p>Proposed change to update the reference to state law, and to ensure that archaeological survey reports for projects on known archaeological sites meet state and professional standards for cultural resource reporting.</p>	

Archeology Code Project

<p>Index # - File Name: 4 0023 Attachment - draft changes, Chp 30.32D.pdf</p>	<p>(5) A professional archaeological survey report required under subsection (3)(b) or 3(c) of this section shall: <u>(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);</u> <u>(b) Be submitted to the department by the property owner or project proponent;</u> <u>(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and</u> <u>(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.</u></p>	<p>Proposed change to clarify the requirements for archaeological survey reports required under SCC 30.32D.200(3)(b) and SCC 60.32D.200(3)(c)</p>	
	<p>(5)<u>(6)</u> The department shall provide a copy of the archaeological site archaeological survey report to any affected Indian tribes and Washington State Department of Archaeology and Historic Preservation DAHP at the applicant's expense.</p>	<p>Proposed change to update language and to remove text that put the expense of providing copies of the archaeological survey report on the applicant. Submittal of reports is done electronically and does not incur an expense.</p>	
<p>30.32D.210 Project or permit approval for property on state register as an archaeological resource</p>	<p>(1) The county approving authority <u>director</u> shall not issue a permit for any development activity or project approval requiring an archaeology site <u>a professional archaeological survey report</u> pursuant to SCC 30.32D.200 without considering the archaeology site <u>professional archaeological survey report</u> and any comments on the report submitted by an affected Indian tribe <u>and any additional archaeological work and permitting required under Chapter 27.53 RCW.</u></p>	<p>Proposed change to comply with updated language for archaeological survey reports, and to include a reference to the requirements of state law. Language is modified to clarify that the director is the county approving authority</p>	
	<p>(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides <u>documentation of the request for tribal comments to the department.</u></p>	<p>Proposed removal to better align with state law and best tribal coordination practices.</p>	
	<p>(3) (2) Based on the information contained in the archaeology site <u>professional archaeological survey report</u> and any comments submitted by the affected Indian tribe(s) obtained during the <u>consultation review</u> process, the county approving <u>director</u> will condition the permit or approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with <u>federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.</u></p>	<p>Proposed change to update language and to include a reference to the requirements of state law. Language is modified to clarify that the director is the conditioning authority.</p>	

<p>Index #: 30.32D.225 Inadvertent discovery of archaeological resources</p>	<p>30.32D.220 Human remains or inadvertent discovery of archaeological resources found on a site.</p> <p>(1) If, during the course of construction, earth movement, clearing or other site land disturbance, human remains or archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the department director may issue a stop work order pursuant to chapter 30.85 SCC.</p> <p>(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the state office of archaeology and historic preservation <u>Washington State Department of Archaeology and Historic Preservation (DAHP)</u>.</p> <p>(3) After <u>Ground disturbance may not proceed until</u> consultation with any affected Indian tribe and the state office of archaeology and historic preservation <u>DAHP is completed</u>, the state shall determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within a preservation area. This designation shall not affect underlying zoning.</p> <p>(4) <u>Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. The preservation area designation shall remain on the appropriate area within a site until</u></p> <p>(a) The human remains or archaeological resources have been completely removed from the site; or</p> <p>(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource.</p>	<p>Proposed change to replace outdated language and to remove the discovery of human remains from this section to the new 30.32D.225 Inadvertent discovery of skeletal human remains below.</p> <p>Language is modified to clarify that the director has the discretionary ability to issue a stop work order.</p> <p>Proposed change to replace an outdated reference to DAHP.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Language was modified to clarify that the director or designee is a part of the mitigation negotiation.</p>	
<p>30.32D.225 Inadvertent discovery of</p>	<p>30.32D.225 Inadvertent discovery of human remains.</p> <p>(1) <u>If, during the course of construction, earth movement, clearing, or other site disturbance,</u></p>	<p>This section has been added to conform to state law for the inadvertent discovery of skeletal human remains. HB 2624 (2008)</p>	

<p>Index # - File Name: 1_0023 Attachment - draft changes Chap 30.32D.pdf Human remains (new section)</p>	<p><u>human remains are encountered, all work shall cease immediately in an area large enough to protect the find.</u></p> <p><u>(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.</u></p> <p><u>3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.</u></p> <p><u>(4) The property owner shall also promptly notify the DAHP and the director. Under these circumstances, the director or designee may issue a stop work order pursuant to chapter 30.85 SCC.</u></p> <p><u>(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.</u></p>	<p>established the procedure for inadvertent discovery.</p> <p>In addition to the requirements of state law. SCC 32D.225(4) includes a requirement to notify the director and the DAHP.</p>	
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Piona, Amber

From: Jackie Ferry <jferry@samishtribe.nsn.us>
Sent: Tuesday, January 5, 2021 12:34 PM
To: Kaehler, Gretchen
Subject: RE: Snohomish County Code changes to 30.32.D for Historic and Archaeological Resources

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Good changes!

Hóy7sxcwq'e,

Jackie



Jackie Ferry, MA, RPA | Chelángen Director | Tribal Historic Preservation Officer | Samish Indian Nation
8327 Summit Park Rd | Anacortes, WA 98221-2738 | Monday - Thursday
Office: 360.726.3399 | Cell: 360.770.7784 | E-mail: jferry@samishtribe.nsn.us

From: Kaehler, Gretchen <Gretchen.Kaehler@co.snohomish.wa.us>
Sent: Monday, January 4, 2021 1:32 PM
To: Tom Wooten <tomwooten@samishtribe.nsn.us>
Cc: Jackie Ferry <jferry@samishtribe.nsn.us>; Harper, Lacey <Lacey.Harper@co.snohomish.wa.us>
Subject: FW: Snohomish County Code changes to 30.32.D for Historic and Archaeological Resources

Dear Chairman Wooten,

Snohomish County is proposing code changes to Chapter 30.32D Historic 30.32D Historic and Archaeological Resources in order to comply with new state laws and to clarify language and intent. Snohomish County is also committed to being proactive in regard to early identification of archaeological resources and sites. The code change are proposed to:

- Update code language to align with updated state laws for human skeletal remains and abandoned cemeteries
- Update language to clarify and align with state and professional terminology
- Provide flexibility for the county to be able to require professional archaeological surveys

I have provided two attachments. One shows the changes that were made to the original code, Track Changes to 30.32D, and the other is the proposed code changes and rationale for changes. Please feel free to contact me if you have any questions. We appreciate any comments you may have on the code changes by January 31, 2021.

Respectfully

Gretchen

Archeology Code Project

Index # - File Name: 1.0024_01-05-2021-Samish_Tribe_email_re_Snohomish_County_Code_Changes.pdf

Gretchen Kaehler

Snohomish County Archaeologist/CLG Coordinator

Cultural Resources Division

425-388-3432 (office)

425-359-1504 (mobile)

Piona, Amber

From: Kaehler, Gretchen
Sent: Monday, January 4, 2021 1:21 PM
To: Bob de los Angeles
Cc: Steven Mullen Moses (steve@snoqualmietribe.us); Adam Osbekoff (adam@snoqualmietribe.us); Jaime Martin; Harper, Lacey
Subject: Re: Snohomish County Code changes to 30.32.D for Historic and Archaeological Resources
Attachments: Track Changes to 30.32D_12082020.docx; Proposed changes to 30.32D Historic and Archaeological Resources.docx

Dear Chairman de los Angeles,

Snohomish County is proposing code changes to Chapter 30.32D Historic 30.32D Historic and Archaeological Resources in order to comply with new state laws and to clarify language and intent. Snohomish County is also committed to being proactive in regard to early identification of archaeological resources and sites. The code change are proposed to:

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- Update language to clarify and align with state and professional terminology
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I have provided two attachments. One shows the changes that were made to the original code, Track Changes to 30.32D, and the other is the proposed code changes and rationale for changes. Please feel free to contact me if you have any questions. We appreciate any comments you may have on the code changes by January 31, 2021.

Respectfully

Gretchen

Gretchen Kaehler
Snohomish County Archaeologist/CLG Coordinator
Cultural Resources Division
425-388-3432 (office)
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ODRAFT

**Chapter 30.32D
HISTORIC AND ARCHAEOLOGICAL RESOURCES**

Sections:

30.32D.010	Purpose and applicability.
30.32D.020	Creation of county register of historic places.
30.32D.030	Designation of property on county register.
30.32D.040	Criteria for designation of property on county register.
30.32D.050	Removal of properties from county register.
30.32D.060	Alteration or demolition of property on county register.
30.32D.070	Procedure for obtaining certificate of appropriateness or waiver.
30.32D.075	Exemptions.
30.32D.080	Review process for request for certificate of appropriateness.
30.32D.090	Review process for waiver of certificate of appropriateness.
30.32D.100	Applicability of zoning requirements.
30.32D.200	Archaeology site <u>Archaeological survey</u> report.
30.32D.210	Project or permit approval for property on state register as an archaeological resource.
30.32D.220	Human remains or archaeological resources found on a site.
30.32D.300	Appeals.

30.32D.010 Purpose and applicability.

(1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to

- (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history;
- (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history;
- (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts;

(d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and

(e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects.

(f) Comply with all federal and state laws related to regulation of archaeological and cultural sites.

(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws on both public and private lands. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; ~~and~~ Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."

(3) This chapter applies to:

(a) Properties eligible for and on the Snohomish ~~county~~ County Register of Historic Places established pursuant to SCC 30.32D.020; and

(b) Properties ~~listed-recorded~~ on the Washington ~~State Archaeological Site Inventory Information System for Architectural and Archaeological Records Data (WISAARD)~~.

(4) Regulations concerning the Snohomish County Historic Preservation Commission are in chapter 2.96 SCC; regulations concerning the state tax incentive program for qualifying historic properties are located in chapter 4.31 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.020 Creation of county register of historic places.

There is hereby established a Snohomish county register of historic places that identifies historic buildings, sites, structures, objects, and districts within the county. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.030 Designation of property on county register.

- (1) Listing on the county register is an honorary designation denoting significant association with the historic, architectural, archaeological, engineering, or cultural heritage of the community. Property is listed individually or as properties that as a group contribute to the historical integrity of an historic district.
- (2) The historic preservation commission, as established in Title 2 SCC, or any person may nominate a building, site, structure, object, or district for placement on the county register by submitting a letter to the historic preservation commission.
- (3) The county shall make a written recommendation to the historic preservation commission regarding the nomination and notify the property owner of the nomination, if necessary. If the property owner consents to the nomination, the department shall schedule a public meeting before the historic preservation commission to consider the nomination. The county shall publish notice of the public meeting in accordance with SCC 30.70.045 and provide mailed notice to the property owner, occupant, and nominator.
- (4) The historic preservation commission shall consider the nomination at the public meeting. If the commission finds that the nominated property meets the criteria for designation established in SCC 30.32D.040, the commission shall designate the property on the county register. If the property is so designated by the commission, the department shall indicate the designation on county zoning maps by placing "HR" on the property.
- (5) The county shall provide notice of the historic preservation commission's decision as required in SCC 30.32D.030. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 12-018, May 2, 2012, Eff date May 21, 2012).

30.32D.040 Criteria for designation of property on county register.

- (1) The historic preservation commission may designate a property or properties on the county register only if the building, site, structure, object, or district is at least fifty years old or, in the event that the property is of exceptional historical significance as determined by the commission, at least forty years old.
- (2) The commission will also consider whether the nominated property or properties:

- (a) Possess significant and important association with the history, architecture, archaeology, engineering, or cultural heritage of the county as documented in texts used as standard references by professionals in these disciplines;
- (b) Possess one or more of the following:
 - (i) integrity of location, meaning the building, structure or object has remained on the same site for fifty years or more;
 - (ii) integrity of design, meaning the design of the building, structure, object, or the structures contributing to a district have remained unchanged for fifty years or more;
 - (iii) integrity of materials, meaning the materials used in the building, object or structure are either original or have been reproduced to replicate, as closely as possible, the original materials; or
 - (iv) integrity of workmanship, meaning the building must exhibit original workmanship, or if repairs or reconstruction of a building, structure, site or object have been or need to be carried out, the methods used are as similar to the original construction methods as possible. If modern construction methods were used, the resulting repair or reconstruction must replicate the original workmanship as closely as possible;
- (c) Meet at least one of the following criteria:
 - (i) the property is associated with events that made an important contribution to national, state, or local history;
 - (ii) the property embodies architectural characteristics of a distinctive and defined type, period, style, or method of design or construction, as documented in professional architectural and historic preservation publications, or represents a significant and distinguishable entity whose components may lack individual distinction;
 - (iii) the property is an outstanding work of a recognized designer, builder, or architect whose work has been documented in professional publications as having made a substantial contribution to the artistic and aesthetic values of the community;
 - (iv) the property exemplifies or reflects elements of Snohomish county's cultural, social, economic, political, aesthetic, engineering or architectural history;
 - (v) the property is associated with the life of a person of documented importance in national, state, or local history;

- (vi) the property yields or is likely to yield important archaeological information related to history or prehistory;
- (vii) the property contains a building or structure removed from its original location but which has significant and documented architectural value, or which is the only surviving building or structure associated with an historic person or event;
- (viii) the property is a birthplace or grave of an historical figure of documented importance which is the only surviving building, structure or site associated with that person;
- (ix) the property is a cemetery which derives its primary significance from age, design features, or association with historic events or cultural patterns;
- (x) the property contains a building that has been reconstructed in an historically accurate manner on the original site; or
- (xi) the property is an example of folk architecture and design that is creative and unique, but which does not fit into formal architectural or historical categories. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.050 Removal of properties from county register.

- (1) Initiation of removal of a property from the local register may occur in one of the following ways:
 - (a) A property owner may request review of a property for removal from the local register by submitting a written request to the historic preservation commission; or
 - (b) The historic preservation commission may initiate removal.
- (2) The historic preservation commission will schedule a public meeting for consideration of removal of any property from the local register. If removal is requested by the property owner, the commission must schedule the public meeting within 30 days of receipt of the request for removal. The department shall provide notice of the public meeting in accordance with SCC 30.32D.030(3).
- (3) If the property owner has requested removal, the property owner must notify the historic preservation commission within one week of the conclusion of the public meeting that
 - (a) The property will be removed from the local register; or

(b) The property owner rescinds the removal request.

Failure by the property owner to so notify the historic preservation commission will result in the property remaining on the register.

(4) The historic preservation commission may remove property from the local register without the owner's consent if alterations to the property result in loss of historical integrity. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.060 Alteration or demolition of property on county register.

(1) An owner of property listed on the local register who proposes any physical alteration or rehabilitation of the exterior of a register property, or of interior features that are listed as contributing to the significance of the property, excluding ordinary repair, maintenance and emergency repairs, must request and receive a certificate of appropriateness from the historic preservation commission for the proposed work. If a building permit is required pursuant to subtitle 30.5 SCC for the work, issuance of a certificate of appropriateness will be a precondition to issuance of a building permit.

(2) An owner who proposes to partially or completely demolish a register property must request and receive from the historic preservation commission a waiver of a certificate of appropriateness as a precondition to issuance of a permit for demolition. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.070 Procedure for obtaining certificate of appropriateness or waiver.

(1) The applicant for a permit to perform any work described in SCC 30.32D.060 shall submit a copy of the building permit or demolition permit application to the historic preservation commission along with a request to be considered for a certificate of appropriateness or waiver.

(2) The commission shall consider a request for a certificate of appropriateness or waiver at a public meeting. The department shall publish notice of the meeting as required in SCC 30.70.045 and provide mailed notice to the applicant and the property owner.

(3) The department shall not issue a building permit or a demolition permit for a property listed on the local register until a certificate of appropriateness or waiver is issued. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.075 Exemptions.

Ordinary repair and maintenance and emergency repair do not require a certificate of appropriateness or review by the historic preservation commission. For purposes of this chapter, ordinary repair and maintenance means work for which no county permit is required by law, and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, the real property or structure and appurtenances thereto, and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage. For purposes of this chapter, emergency repair means work necessary to prevent destruction or disrepair to real property immediately threatened or damaged by fire, flood, earthquake, vandalism or other disaster. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.080 Review process for request for certificate of appropriateness.

(1) An applicant must include within a request for a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule. Information required by the commission will include information responding to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, referred to in WAC 254-20-100 and used by the Washington State Advisory Council on Historic Preservation and by the commission. A copy of the standards is available at the department front counter.

(2) When responding to a request for a certificate of appropriateness, the historic preservation commission shall review all features of the property that are proposed for alteration and that are listed as contributing to the property's designation on the local register nomination form.

(3) The commission shall meet with the applicant and review the proposed work according to the design review criteria established by administrative rule.

(4) The commission shall complete its review and make its recommendation within forty-five days of the date of receipt of the application. If necessary, the commission may extend the review period for up to an additional twenty days. If no recommendation has been made within sixty-five days, the commission is considered to have recommended approval.

- (5) The commission will provide the applicant with its written recommendation, stating the findings of fact and conclusions leading to the recommendation. Any conditions agreed to by the applicant in the review process and accepted by the commission shall become conditions of approval for any relevant permit granted and be incorporated in the commission's decision to grant a certificate of appropriateness.
- (6) If the applicant agrees to the commission's recommendation, the commission shall issue a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (7) If the applicant does not agree to the commission's recommendation and any alteration to the property is determined to be inappropriate by the commission, the property may be removed by the commission from the local register. Once the property is removed from the local register, the requirement of SCC 30.32D.060(1) shall no longer apply. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.090 Review process for waiver of certificate of appropriateness.

- (1) An applicant must include within a request for a waiver of a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule.
- (2) The commission shall review the request for a waiver in accordance with the commission's administrative rules. The commission shall consider whether there is any feasible alternative to the demolition proposed.
- (3) Following review of the request, the commission shall issue a waiver of a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (4) As a part of the issuance of the waiver, the commission may recommend to the building official that the applicant mitigate the demolition of register property. The commission shall support any recommended requirement of mitigation with findings of fact and conclusions. Mitigation may include, but is not limited to, an identification plaque, use of an architectural element of an historic building in new construction, and/or buffering or protection of remaining elements of an historic resource. The building official shall adopt a commission recommendation for mitigation as a condition of approval of any permit granted for partial or complete demolition of the property.
- (5) After the property is partially or completely demolished, the commission shall remove the property from the local register. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.100 Applicability of zoning requirements.

Properties designated on the local register shall be subject to the provisions set forth in this title. Nothing contained in this chapter shall be construed as repealing, modifying, or waiving any other provision of this title. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.200 ~~Archaeology site~~ Archaeological Survey report.

- (1) Known archaeological sites are recorded on ~~the Washington State Department of Archaeology and Historic Preservation's Geographic Information System WISAARD and or information from datasharing agreements with DAHP.~~
- (2) An archaeological site may cover only a portion of a property, parcel, or lot and may ~~be located on~~ extend onto more than one property, parcel, or lot.
- (3) Completion of ~~an archaeology site report~~ a professional archaeology survey ~~or relocation of the project to avoid the known archaeological site shall be required for:~~
 - (a) ~~Shall be required for Anyany~~ construction, earth movement, clearing, or other ~~siteland~~ disturbance of a known archaeological site;
 - (b) ~~Shall be required for Anyany~~ development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map.
 - (c) ~~May be required for any development application when Information~~ information provided by Tribes or County and/or state professional archaeologists indicates that the project location has a high probability for containing archaeological resources.
- (4) ~~An archaeology site report~~ A professional archaeology survey required under subsection (3)(a) of this section shall:
 - (a) Be written by a professional archaeologist as defined in ~~WAC 25-48-020 RCW 27.53.030(11);~~
 - (b) Be submitted to the department by the property owner or project proponent;
 - (c) Include the location, ~~condition,~~ and extent of the archaeological resources located on site ~~and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and~~

(d) Include the results of consultation with affected Indian ~~tribes on proposed actions to avoid or mitigate impacts of the proposed project.~~ tribes;

(e) Meet state and professional standards for cultural resources reporting; and

(f) Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.

(5) A professional archaeological survey report required under subsection (3)(b) or (3)(c) of this section shall:

(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);

(b) Be submitted to the department by the property owner or project proponent;

(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and

(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.

(5)(6) The department shall provide a copy of the ~~archaeological site~~ archaeological survey report to any affected Indian tribes and ~~the Washington State Department of Archaeology and Historic Preservation, DAHP, at the applicant's expense.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007; Amended by Amended Ord. 15-027, May 6, 2015, Eff date May 24, 2015).

30.32D.210 Project or permit approval for property on state register as an archaeological resource.

(1) The ~~county approving authority~~ director shall not issue a permit for any development activity or project approval requiring ~~an archaeology site~~ professional archeological survey report pursuant to SCC 30.32D.200 without considering the ~~archaeology site~~ professional archeological survey report and any comments on the report submitted by an affected Indian tribe and any additional archaeological work and permitting required under Chapter 27.53 RCW.

~~(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides documentation of the request for tribal comments to the department.~~

~~(2)(3)~~ Based on the information contained in ~~the archaeology site~~ professional archeological survey report and any comments submitted by the affected Indian tribe(s) obtained during the ~~consultation-review~~ process, the ~~county approving authority~~ director will condition the permit or project approval ~~in a manner that will avoid or minimize impacts to the archaeological resource consistent with federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.220 ~~Human remains or~~ Inadvertent discovery of archaeological resources ~~found on a site.~~

(1) If, during the course of construction, earth movement, clearing, or other ~~site land~~ disturbance, ~~human remains or~~ archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the ~~department director~~ may issue a stop work order pursuant to chapter 30.85 SCC.

(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the ~~state office of archaeology and historic preservation~~ Washington State Department of Archaeology and Historic Preservation (DAHP).

(3) ~~After~~ Ground disturbance may not proceed until consultation with any affected Indian tribe and the ~~state office of archaeology and historic preservation~~ DAHP is completed., ~~the state shall determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within the site as a preservation area. No ground disturbance is permitted within a preservation area. This designation shall not affect underlying zoning.~~

(4) Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. ~~The preservation area designation shall remain on the appropriate area within a site until~~

~~(a) The human remains or archaeological resources have been completely removed from the site; or~~

~~(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.225 Inadvertent discovery of human remains.

(1) If, during the course of construction, earth movement, clearing, or other site disturbance, human remains are encountered, all work shall cease immediately in an area large enough to protect find.

(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.

(3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.

(4) The property owner shall also promptly notify the DAHP, the director, and the Snohomish County Archaeologist. Under these circumstances, the director may issue a stop work order pursuant to chapter 30.85 SCC.

(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.

30.32D.300 Appeals.

Any building permit issued with conditions imposed pursuant to this chapter may be appealed as a Type 1 decision pursuant to chapter 30.71 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

The Snohomish County Code is current through legislation passed October 3, 2018.

Disclaimer: The Clerk of the Council's Office retains the official version of the Snohomish County Code. The web version is updated as new ordinances become effective, and includes new ordinances through 18-053. New ordinances do not necessarily become effective in chronological or numerical order. Users should contact the Clerk of the Council's Office for information on legislation not yet reflected in the web version.

[County Website: snohomishcountywa.gov](http://snohomishcountywa.gov)

County Telephone: (425) 388-3494

[Code Publishing Company](#)

Proposed Changes 30.32D

Code Section	Proposed Change	Rationale	Comments
<p>30.32D.010 Purpose and Applicability</p>	<p>30.32.D.010 Purpose and applicability. (1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to: (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history; (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history; (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts; (d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and (e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects; and (f) <u>Comply with all federal and state laws related to regulation of archaeological and cultural sites.</u></p>	<p>Language proposed to be added to clarify that one of the purposes of this section is comply with federal and state law for archaeological and cultural sites.</p>	
	<p>(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws <u>on both public and private lands</u>. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; and Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."</p>	<p>HB 2624 (2008) establishes that Native American grave sites are protected on both public and private lands. Proposed change to reflect state regulation. Additionally, HB 2624 changed several sections of the Revised Code of Washington, and SCC 30.32D(2) now includes references to the RCW sections on Human Remains and Abandoned and Historic Cemeteries and Historic Graves.</p>	
	<p>(3) This chapter applies to: (a) Properties eligible for and on the Snohomish county <u>County</u> Register of Historic Places established pursuant to SCC30.32D.020; and (b) Properties listed <u>recorded</u> on the Washington State Archaeological Site Inventory <u>Information System for Architectural and Archaeological Records Data (WISAARD)</u>.</p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation (DAHP)'s database and language changed to clarify that information is recorded not listed in the database.</p>	

Archeology Code Project

<p>Index # File Name: 30.32D.200 Archaeology site Survey report.</p> <p>Archaeological Survey Report</p>	<p>(1) Known archaeological sites are recorded on the Washington State Department of Archaeology and Historic Preservation's Geographic Information System WISAARD and or information from <u>data sharing agreements with DAHP.</u></p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation(DAHP)'s database and to reference the data sharing agreement that the county has with DAHP.</p>	
	<p>(2) An archaeological site may cover only a portion of a property, parcel, or lot and may be located on <u>extend onto</u> more than one property, parcel or lot.</p>	<p>Proposed change for clarity.</p>	
	<p>(3) Completion of an archaeology site report <u>a professional archaeological survey or relocation of the property to avoid the known archaeological site shall be required for:</u> (a) <u>Shall be required for</u> any construction, earth movement, clearing or other <u>site land</u> disturbance of a known archaeological site; (b) <u>Shall be required</u> for any development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map; (c) <u>May be required for any development application when information provided by Tribes or County and/or State professional archaeologists indicates that the project location has a high probability for containing archaeological resources.</u></p>	<p>Proposed change to introduce a third situation in which archaeological survey reports may be required, based on information provided by County and/or State professional archaeologists that the location has a high probability for containing archaeological resources.</p>	
	<p>(4) An archaeology site report <u>A professional archaeological survey</u> required under subsection (3)(a) of this section shall: (a) Be written by a professional archaeologist as defined in <u>WAC 25.48.020 RCW 27.53.030(11)</u>; (b) Be submitted to the department by the property owner or project proponent; (c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and (d) Include the results of consultation with affected Indian tribe on proposed actions to avoid or mitigate impacts of the proposed project tribes; <u>(e) Meet state and professional standards for cultural resources reporting; and</u> <u>(f) Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.</u></p>	<p>Proposed change to update the reference to state law, and to ensure that archaeological survey reports for projects on known archaeological sites meet state and professional standards for cultural resource reporting.</p>	

Archeology Code Project

<p>Index # - File Name: 4 0026 Attachment - draft changes, Chp 30.32D.pdf</p>	<p>(5) A professional archaeological survey report required under subsection (3)(b) or 3(c) of this section shall: <u>(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);</u> <u>(b) Be submitted to the department by the property owner or project proponent;</u> <u>(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and</u> <u>(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.</u></p>	<p>Proposed change to clarify the requirements for archaeological survey reports required under SCC 30.32D.200(3)(b) and SCC 60.32D.200(3)(c)</p>	
	<p>(5)<u>(6)</u> The department shall provide a copy of the archaeological site archaeological survey report to any affected Indian tribes and Washington State Department of Archaeology and Historic Preservation DAHP at the applicant's expense.</p>	<p>Proposed change to update language and to remove text that put the expense of providing copies of the archaeological survey report on the applicant. Submittal of reports is done electronically and does not incur an expense.</p>	
<p>30.32D.210 Project or permit approval for property on state register as an archaeological resource</p>	<p>(1) The county approving authority <u>director</u> shall not issue a permit for any development activity or project approval requiring an archaeology site <u>a professional archaeological survey report</u> pursuant to SCC 30.32D.200 without considering the archaeology site <u>professional archaeological survey report</u> and any comments on the report submitted by an affected Indian tribe <u>and any additional archaeological work and permitting required under Chapter 27.53 RCW.</u></p>	<p>Proposed change to comply with updated language for archaeological survey reports, and to include a reference to the requirements of state law. Language is modified to clarify that the director is the county approving authority</p>	
	<p>(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides <u>documentation of the request for tribal comments to the department.</u></p>	<p>Proposed removal to better align with state law and best tribal coordination practices.</p>	
	<p>(3) (2) Based on the information contained in the archaeology site <u>professional archaeological survey report</u> and any comments submitted by the affected Indian tribe(s) obtained during the <u>consultation review</u> process, the county approving <u>director</u> will condition the permit or approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with <u>federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.</u></p>	<p>Proposed change to update language and to include a reference to the requirements of state law. Language is modified to clarify that the director is the conditioning authority.</p>	

<p>Index #: 30.32D.225 Inadvertent discovery of archaeological resources</p>	<p>30.32D.220 Human remains or inadvertent discovery of archaeological resources found on a site.</p> <p>(1) If, during the course of construction, earth movement, clearing or other site land disturbance, human remains or archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the department director may issue a stop work order pursuant to chapter 30.85 SCC.</p> <p>(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the state office of archaeology and historic preservation <u>Washington State Department of Archaeology and Historic Preservation (DAHP)</u>.</p> <p>(3) After Ground disturbance may not proceed until consultation with any affected Indian tribe and the state office of archaeology and historic preservation <u>DAHP is completed</u>, the state shall determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within a preservation area. This designation shall not affect underlying zoning.</p> <p>(4) <u>Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. The preservation area designation shall remain on the appropriate area within a site until</u></p> <p>(a) The human remains or archaeological resources have been completely removed from the site; or</p> <p>(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource.</p>	<p>Proposed change to replace outdated language and to remove the discovery of human remains from this section to the new 30.32D.225 Inadvertent discovery of skeletal human remains below.</p> <p>Language is modified to clarify that the director has the discretionary ability to issue a stop work order.</p> <p>Proposed change to replace an outdated reference to DAHP.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Language was modified to clarify that the director or designee is a part of the mitigation negotiation.</p>	
<p>30.32D.225 Inadvertent discovery of</p>	<p>30.32D.225 Inadvertent discovery of human remains.</p> <p>(1) If, during the course of construction, earth movement, clearing, or other site disturbance,</p>	<p>This section has been added to conform to state law for the inadvertent discovery of skeletal human remains. HB 2624 (2008)</p>	

<p>Index # - File Name: 1_0026 Attachment - draft changes Chap 30.32D.pdf Human remains (new section)</p>	<p><u>human remains are encountered, all work shall cease immediately in an area large enough to protect the find.</u></p> <p><u>(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.</u></p> <p><u>3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.</u></p> <p><u>(4) The property owner shall also promptly notify the DAHP and the director. Under these circumstances, the director or designee may issue a stop work order pursuant to chapter 30.85 SCC.</u></p> <p><u>(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.</u></p>	<p>established the procedure for inadvertent discovery.</p> <p>In addition to the requirements of state law. SCC 32D.225(4) includes a requirement to notify the director and the DAHP.</p>	
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Piona, Amber

From: Kaehler, Gretchen
Sent: Monday, January 4, 2021 1:06 PM
To: Shawn Yanity
Cc: Kerry Lyste (klyste@stillaguamish.com); Sam Barr; Tracey Boser; Harper, Lacey
Subject: Re: Snohomish County Code changes to 30.32.D for Cultural
Attachments: Track Changes to 30.32D_12082020.docx; Proposed changes to 30.32D Historic and Archaeological Resources.docx

Dear Chairman Yanity,

Snohomish County is proposing code changes to Chapter 30.32D Historic 30.32D Historic and Archaeological Resources in order to comply with new state laws and to clarify language and intent. Snohomish County is also committed to being proactive in regard to early identification of archaeological resources and sites. The code change are proposed to:

- Update code language to align with updated state laws for human skeletal remains and abandoned cemeteries
- Update language to clarify and align with state and professional terminology
- Provide flexibility for the county to be able to require professional archaeological surveys

I have provided two attachments. One shows the changes that were made to the original code, Track Changes to 30.32D, and the other is the proposed code changes and rationale for changes. Please feel free to contact me if you have any questions. We appreciate any comments you may have on the code changes by January 31, 2021.

Respectfully

Gretchen

Gretchen Kaehler
Snohomish County Archaeologist/CLG Coordinator
Cultural Resources Division
425-388-3432 (office)
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ODRAFT

**Chapter 30.32D
HISTORIC AND ARCHAEOLOGICAL RESOURCES**

Sections:

30.32D.010	Purpose and applicability.
30.32D.020	Creation of county register of historic places.
30.32D.030	Designation of property on county register.
30.32D.040	Criteria for designation of property on county register.
30.32D.050	Removal of properties from county register.
30.32D.060	Alteration or demolition of property on county register.
30.32D.070	Procedure for obtaining certificate of appropriateness or waiver.
30.32D.075	Exemptions.
30.32D.080	Review process for request for certificate of appropriateness.
30.32D.090	Review process for waiver of certificate of appropriateness.
30.32D.100	Applicability of zoning requirements.
30.32D.200	Archaeology site <u>Archaeological survey</u> report.
30.32D.210	Project or permit approval for property on state register as an archaeological resource.
30.32D.220	Human remains or archaeological resources found on a site.
30.32D.300	Appeals.

30.32D.010 Purpose and applicability.

(1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to

- (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history;
- (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history;
- (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts;

(d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and

(e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects.

(f) Comply with all federal and state laws related to regulation of archaeological and cultural sites.

(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws on both public and private lands. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; ~~and~~ Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."

(3) This chapter applies to:

(a) Properties eligible for and on the Snohomish ~~county~~ County Register of Historic Places established pursuant to SCC 30.32D.020; and

(b) Properties ~~listed-recorded~~ on the Washington ~~State Archaeological Site Inventory Information System for Architectural and Archaeological Records Data (WISAARD)~~.

(4) Regulations concerning the Snohomish County Historic Preservation Commission are in chapter 2.96 SCC; regulations concerning the state tax incentive program for qualifying historic properties are located in chapter 4.31 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.020 Creation of county register of historic places.

There is hereby established a Snohomish county register of historic places that identifies historic buildings, sites, structures, objects, and districts within the county. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.030 Designation of property on county register.

- (1) Listing on the county register is an honorary designation denoting significant association with the historic, architectural, archaeological, engineering, or cultural heritage of the community. Property is listed individually or as properties that as a group contribute to the historical integrity of an historic district.
- (2) The historic preservation commission, as established in Title 2 SCC, or any person may nominate a building, site, structure, object, or district for placement on the county register by submitting a letter to the historic preservation commission.
- (3) The county shall make a written recommendation to the historic preservation commission regarding the nomination and notify the property owner of the nomination, if necessary. If the property owner consents to the nomination, the department shall schedule a public meeting before the historic preservation commission to consider the nomination. The county shall publish notice of the public meeting in accordance with SCC 30.70.045 and provide mailed notice to the property owner, occupant, and nominator.
- (4) The historic preservation commission shall consider the nomination at the public meeting. If the commission finds that the nominated property meets the criteria for designation established in SCC 30.32D.040, the commission shall designate the property on the county register. If the property is so designated by the commission, the department shall indicate the designation on county zoning maps by placing "HR" on the property.
- (5) The county shall provide notice of the historic preservation commission's decision as required in SCC 30.32D.030. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 12-018, May 2, 2012, Eff date May 21, 2012).

30.32D.040 Criteria for designation of property on county register.

- (1) The historic preservation commission may designate a property or properties on the county register only if the building, site, structure, object, or district is at least fifty years old or, in the event that the property is of exceptional historical significance as determined by the commission, at least forty years old.
- (2) The commission will also consider whether the nominated property or properties:

- (a) Possess significant and important association with the history, architecture, archaeology, engineering, or cultural heritage of the county as documented in texts used as standard references by professionals in these disciplines;
- (b) Possess one or more of the following:
 - (i) integrity of location, meaning the building, structure or object has remained on the same site for fifty years or more;
 - (ii) integrity of design, meaning the design of the building, structure, object, or the structures contributing to a district have remained unchanged for fifty years or more;
 - (iii) integrity of materials, meaning the materials used in the building, object or structure are either original or have been reproduced to replicate, as closely as possible, the original materials; or
 - (iv) integrity of workmanship, meaning the building must exhibit original workmanship, or if repairs or reconstruction of a building, structure, site or object have been or need to be carried out, the methods used are as similar to the original construction methods as possible. If modern construction methods were used, the resulting repair or reconstruction must replicate the original workmanship as closely as possible;
- (c) Meet at least one of the following criteria:
 - (i) the property is associated with events that made an important contribution to national, state, or local history;
 - (ii) the property embodies architectural characteristics of a distinctive and defined type, period, style, or method of design or construction, as documented in professional architectural and historic preservation publications, or represents a significant and distinguishable entity whose components may lack individual distinction;
 - (iii) the property is an outstanding work of a recognized designer, builder, or architect whose work has been documented in professional publications as having made a substantial contribution to the artistic and aesthetic values of the community;
 - (iv) the property exemplifies or reflects elements of Snohomish county's cultural, social, economic, political, aesthetic, engineering or architectural history;
 - (v) the property is associated with the life of a person of documented importance in national, state, or local history;

- (vi) the property yields or is likely to yield important archaeological information related to history or prehistory;
- (vii) the property contains a building or structure removed from its original location but which has significant and documented architectural value, or which is the only surviving building or structure associated with an historic person or event;
- (viii) the property is a birthplace or grave of an historical figure of documented importance which is the only surviving building, structure or site associated with that person;
- (ix) the property is a cemetery which derives its primary significance from age, design features, or association with historic events or cultural patterns;
- (x) the property contains a building that has been reconstructed in an historically accurate manner on the original site; or
- (xi) the property is an example of folk architecture and design that is creative and unique, but which does not fit into formal architectural or historical categories. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.050 Removal of properties from county register.

- (1) Initiation of removal of a property from the local register may occur in one of the following ways:
 - (a) A property owner may request review of a property for removal from the local register by submitting a written request to the historic preservation commission; or
 - (b) The historic preservation commission may initiate removal.
- (2) The historic preservation commission will schedule a public meeting for consideration of removal of any property from the local register. If removal is requested by the property owner, the commission must schedule the public meeting within 30 days of receipt of the request for removal. The department shall provide notice of the public meeting in accordance with SCC 30.32D.030(3).
- (3) If the property owner has requested removal, the property owner must notify the historic preservation commission within one week of the conclusion of the public meeting that
 - (a) The property will be removed from the local register; or

(b) The property owner rescinds the removal request.

Failure by the property owner to so notify the historic preservation commission will result in the property remaining on the register.

(4) The historic preservation commission may remove property from the local register without the owner's consent if alterations to the property result in loss of historical integrity. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.060 Alteration or demolition of property on county register.

(1) An owner of property listed on the local register who proposes any physical alteration or rehabilitation of the exterior of a register property, or of interior features that are listed as contributing to the significance of the property, excluding ordinary repair, maintenance and emergency repairs, must request and receive a certificate of appropriateness from the historic preservation commission for the proposed work. If a building permit is required pursuant to subtitle 30.5 SCC for the work, issuance of a certificate of appropriateness will be a precondition to issuance of a building permit.

(2) An owner who proposes to partially or completely demolish a register property must request and receive from the historic preservation commission a waiver of a certificate of appropriateness as a precondition to issuance of a permit for demolition. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.070 Procedure for obtaining certificate of appropriateness or waiver.

(1) The applicant for a permit to perform any work described in SCC 30.32D.060 shall submit a copy of the building permit or demolition permit application to the historic preservation commission along with a request to be considered for a certificate of appropriateness or waiver.

(2) The commission shall consider a request for a certificate of appropriateness or waiver at a public meeting. The department shall publish notice of the meeting as required in SCC 30.70.045 and provide mailed notice to the applicant and the property owner.

(3) The department shall not issue a building permit or a demolition permit for a property listed on the local register until a certificate of appropriateness or waiver is issued. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.075 Exemptions.

Ordinary repair and maintenance and emergency repair do not require a certificate of appropriateness or review by the historic preservation commission. For purposes of this chapter, ordinary repair and maintenance means work for which no county permit is required by law, and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, the real property or structure and appurtenances thereto, and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage. For purposes of this chapter, emergency repair means work necessary to prevent destruction or disrepair to real property immediately threatened or damaged by fire, flood, earthquake, vandalism or other disaster. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.080 Review process for request for certificate of appropriateness.

(1) An applicant must include within a request for a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule. Information required by the commission will include information responding to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, referred to in WAC 254-20-100 and used by the Washington State Advisory Council on Historic Preservation and by the commission. A copy of the standards is available at the department front counter.

(2) When responding to a request for a certificate of appropriateness, the historic preservation commission shall review all features of the property that are proposed for alteration and that are listed as contributing to the property's designation on the local register nomination form.

(3) The commission shall meet with the applicant and review the proposed work according to the design review criteria established by administrative rule.

(4) The commission shall complete its review and make its recommendation within forty-five days of the date of receipt of the application. If necessary, the commission may extend the review period for up to an additional twenty days. If no recommendation has been made within sixty-five days, the commission is considered to have recommended approval.

- (5) The commission will provide the applicant with its written recommendation, stating the findings of fact and conclusions leading to the recommendation. Any conditions agreed to by the applicant in the review process and accepted by the commission shall become conditions of approval for any relevant permit granted and be incorporated in the commission's decision to grant a certificate of appropriateness.
- (6) If the applicant agrees to the commission's recommendation, the commission shall issue a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (7) If the applicant does not agree to the commission's recommendation and any alteration to the property is determined to be inappropriate by the commission, the property may be removed by the commission from the local register. Once the property is removed from the local register, the requirement of SCC 30.32D.060(1) shall no longer apply. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.090 Review process for waiver of certificate of appropriateness.

- (1) An applicant must include within a request for a waiver of a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule.
- (2) The commission shall review the request for a waiver in accordance with the commission's administrative rules. The commission shall consider whether there is any feasible alternative to the demolition proposed.
- (3) Following review of the request, the commission shall issue a waiver of a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (4) As a part of the issuance of the waiver, the commission may recommend to the building official that the applicant mitigate the demolition of register property. The commission shall support any recommended requirement of mitigation with findings of fact and conclusions. Mitigation may include, but is not limited to, an identification plaque, use of an architectural element of an historic building in new construction, and/or buffering or protection of remaining elements of an historic resource. The building official shall adopt a commission recommendation for mitigation as a condition of approval of any permit granted for partial or complete demolition of the property.
- (5) After the property is partially or completely demolished, the commission shall remove the property from the local register. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.100 Applicability of zoning requirements.

Properties designated on the local register shall be subject to the provisions set forth in this title. Nothing contained in this chapter shall be construed as repealing, modifying, or waiving any other provision of this title. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.200 ~~Archaeology site~~ Archaeological Survey report.

- (1) Known archaeological sites are recorded on ~~the Washington State Department of Archaeology and Historic Preservation's Geographic Information System WISAARD and or information from datasharing agreements with DAHP.~~
- (2) An archaeological site may cover only a portion of a property, parcel, or lot and may ~~be located on~~ extend onto more than one property, parcel, or lot.
- (3) Completion of ~~an archaeology site report~~ a professional archaeology survey ~~or relocation of the project to avoid the known archaeological site shall be required for:~~
 - (a) ~~Shall be required for Anyany~~ construction, earth movement, clearing, or other ~~siteland~~ disturbance of a known archaeological site;
 - (b) ~~Shall be required for Anyany~~ development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map.
 - (c) ~~May be required for any development application when Information~~ information provided by Tribes or County and/or state professional archaeologists indicates that the project location has a high probability for containing archaeological resources.
- (4) ~~An archaeology site report~~ A professional archaeological survey required under subsection (3)(a) of this section shall:
 - (a) Be written by a professional archaeologist as defined in ~~WAC 25-48-020 RCW 27.53.030(11);~~
 - (b) Be submitted to the department by the property owner or project proponent;
 - (c) Include the location, ~~condition,~~ and extent of the archaeological resources located on site ~~and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and~~

(d) Include the results of consultation with affected Indian ~~tribes on proposed actions to avoid or mitigate impacts of the proposed project.~~ tribes;

(e) Meet state and professional standards for cultural resources reporting; and

(f) Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.

(5) A professional archaeological survey report required under subsection (3)(b) or (3)(c) of this section shall:

(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);

(b) Be submitted to the department by the property owner or project proponent;

(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and

(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.

~~(5)(6) The department shall provide a copy of the archaeological site archaeological survey report to any affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, DAHP, at the applicant's expense.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007; Amended by Amended Ord. 15-027, May 6, 2015, Eff date May 24, 2015).

30.32D.210 Project or permit approval for property on state register as an archaeological resource.

(1) The ~~county approving authority~~ director shall not issue a permit for any development activity or project approval requiring ~~an archaeology site professional archeological survey~~ report pursuant to SCC 30.32D.200 without considering the ~~archaeology site professional archeological survey~~ report and any comments on the report submitted by an affected Indian tribe and any additional archaeological work and permitting required under Chapter 27.53 RCW.

~~(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides documentation of the request for tribal comments to the department.~~

~~(2)(3) Based on the information contained in the archaeology site professional archeological survey report and any comments submitted by the affected Indian tribe(s) obtained during the consultation-review process, the county approving authority director will condition the permit or project approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.220 ~~Human remains or Inadvertent discovery of~~ archaeological resources ~~found on a site.~~

(1) If, during the course of construction, earth movement, clearing, or other ~~site land~~ disturbance, ~~human remains or~~ archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the ~~department director~~ may issue a stop work order pursuant to chapter 30.85 SCC.

(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the ~~state office of archaeology and historic preservation~~ Washington State Department of Archaeology and Historic Preservation (DAHP).

(3) ~~After Ground disturbance may not proceed until~~ consultation with any affected Indian tribe and the ~~state office of archaeology and historic preservation DAHP is completed., the state shall determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within the site as a preservation area. No ground disturbance is permitted within a preservation area. This designation shall not affect underlying zoning.~~

(4) ~~Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. The preservation area designation shall remain on the appropriate area within a site until~~

~~(a) The human remains or archaeological resources have been completely removed from the site; or~~

~~(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.225 Inadvertent discovery of human remains.

(1) If, during the course of construction, earth movement, clearing, or other site disturbance, human remains are encountered, all work shall cease immediately in an area large enough to protect find.

(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.

(3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.

(4) The property owner shall also promptly notify the DAHP, the director, and the Snohomish County Archaeologist. Under these circumstances, the director may issue a stop work order pursuant to chapter 30.85 SCC.

(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.

30.32D.300 Appeals.

Any building permit issued with conditions imposed pursuant to this chapter may be appealed as a Type 1 decision pursuant to chapter 30.71 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

The Snohomish County Code is current through legislation passed October 3, 2018.

Disclaimer: The Clerk of the Council's Office retains the official version of the Snohomish County Code. The web version is updated as new ordinances become effective, and includes new ordinances through 18-053. New ordinances do not necessarily become effective in chronological or numerical order. Users should contact the Clerk of the Council's Office for information on legislation not yet reflected in the web version.

[County Website: snohomishcountywa.gov](http://snohomishcountywa.gov)

County Telephone: (425) 388-3494

[Code Publishing Company](#)

Proposed Changes 30.32D

Code Section	Proposed Change	Rationale	Comments
<p>30.32D.010 Purpose and Applicability</p>	<p>30.32.D.010 Purpose and applicability. (1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to: (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history; (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history; (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts; (d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and (e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects; and (f) <u>Comply with all federal and state laws related to regulation of archaeological and cultural sites.</u></p>	<p>Language proposed to be added to clarify that one of the purposes of this section is comply with federal and state law for archaeological and cultural sites.</p>	
	<p>(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws <u>on both public and private lands</u>. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; and Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."</p>	<p>HB 2624 (2008) establishes that Native American grave sites are protected on both public and private lands. Proposed change to reflect state regulation. Additionally, HB 2624 changed several sections of the Revised Code of Washington, and SCC 30.32D(2) now includes references to the RCW sections on Human Remains and Abandoned and Historic Cemeteries and Historic Graves.</p>	
	<p>(3) This chapter applies to: (a) Properties eligible for and on the Snohomish county <u>County</u> Register of Historic Places established pursuant to SCC30.32D.020; and (b) Properties listed <u>recorded</u> on the Washington State Archaeological Site Inventory <u>Information System for Architectural and Archaeological Records Data (WISAARD)</u>.</p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation (DAHP)'s database and language changed to clarify that information is recorded not listed in the database.</p>	

Archeology Code Project

<p>Index # 30.32D.200 File Name: J:\9938 ATTACHMENT - draft changes - Chpt3032D.pdf Archaeological Survey Report</p>	<p>30.32D.200 Archaeology site Survey report. (1) Known archaeological sites are recorded on the Washington State Department of Archaeology and Historic Preservation's Geographic Information System WISAARD and or information from <u>data sharing agreements with DAHP.</u></p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation(DAHP)'s database and to reference the data sharing agreement that the county has with DAHP.</p>	
	<p>(2) An archaeological site may cover only a portion of a property, parcel, or lot and may be located on <u>extend onto</u> more than one property, parcel or lot.</p>	<p>Proposed change for clarity.</p>	
	<p>(3) Completion of an archaeology site report <u>a professional archaeological survey or relocation of the property to avoid the known archaeological site shall be required for:</u> (a) Shall be required for any construction, earth movement, clearing or other site <u>land</u> disturbance of a known archaeological site; (b) <u>Shall be required</u> for any development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map; (c) <u>May be required for any development application when information provided by Tribes or County and/or State professional archaeologists indicates that the project location has a high probability for containing archaeological resources.</u></p>	<p>Proposed change to introduce a third situation in which archaeological survey reports may be required, based on information provided by County and/or State professional archaeologists that the location has a high probability for containing archaeological resources.</p>	
	<p>(4) An archaeology site report <u>A professional archaeological survey required under subsection (3)(a) of this section shall:</u> (a) Be written by a professional archaeologist as defined in <u>WAC 25.48.020 RCW 27.53.030(11);</u> (b) Be submitted to the department by the property owner or project proponent; (c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and (d) Include the results of consultation with affected Indian tribe on proposed actions to avoid or mitigate impacts of the proposed project tribes; (e) <u>Meet state and professional standards for cultural resources reporting; and</u> (f) <u>Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.</u></p>	<p>Proposed change to update the reference to state law, and to ensure that archaeological survey reports for projects on known archaeological sites meet state and professional standards for cultural resource reporting.</p>	

Archeology Code Project

<p>Index # - File Name: 4 0028 Attachment - draft changes, Chp 30.32D.pdf</p>	<p>(5) A professional archaeological survey report required under subsection (3)(b) or 3(c) of this section shall: <u>(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);</u> <u>(b) Be submitted to the department by the property owner or project proponent;</u> <u>(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and</u> <u>(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.</u></p>	<p>Proposed change to clarify the requirements for archaeological survey reports required under SCC 30.32D.200(3)(b) and SCC 60.32D.200(3)(c)</p>	
	<p>(5)<u>(6)</u> The department shall provide a copy of the archaeological site archaeological survey report to any affected Indian tribes and Washington State Department of Archaeology and Historic Preservation DAHP at the applicant's expense.</p>	<p>Proposed change to update language and to remove text that put the expense of providing copies of the archaeological survey report on the applicant. Submittal of reports is done electronically and does not incur an expense.</p>	
<p>30.32D.210 Project or permit approval for property on state register as an archaeological resource</p>	<p>(1) The county approving authority <u>director</u> shall not issue a permit for any development activity or project approval requiring an archaeology site <u>a professional archaeological survey report</u> pursuant to SCC 30.32D.200 without considering the archaeology site <u>professional archaeological survey report</u> and any comments on the report submitted by an affected Indian tribe <u>and any additional archaeological work and permitting required under Chapter 27.53 RCW.</u></p>	<p>Proposed change to comply with updated language for archaeological survey reports, and to include a reference to the requirements of state law. Language is modified to clarify that the director is the county approving authority</p>	
	<p>(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides <u>documentation of the request for tribal comments to the department.</u></p>	<p>Proposed removal to better align with state law and best tribal coordination practices.</p>	
	<p>(3) (2) Based on the information contained in the archaeology site <u>professional archaeological survey report</u> and any comments submitted by the affected Indian tribe(s) obtained during the <u>consultation review</u> process, the county approving <u>director</u> will condition the permit or approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with <u>federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.</u></p>	<p>Proposed change to update language and to include a reference to the requirements of state law. Language is modified to clarify that the director is the conditioning authority.</p>	

<p>Index #: 30.32D.225 Inadvertent discovery of archaeological resources</p>	<p>30.32D.220 Human remains or inadvertent discovery of archaeological resources found on a site.</p> <p>(1) If, during the course of construction, earth movement, clearing or other site land disturbance, human remains or archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the department director may issue a stop work order pursuant to chapter 30.85 SCC.</p> <p>(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the state office of archaeology and historic preservation <u>Washington State Department of Archaeology and Historic Preservation (DAHP)</u>.</p> <p>(3) After Ground disturbance may not proceed until consultation with any affected Indian tribe and the state office of archaeology and historic preservation <u>DAHP is completed</u>, the state shall determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within a preservation area. This designation shall not affect underlying zoning.</p> <p>(4) <u>Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. The preservation area designation shall remain on the appropriate area within a site until</u></p> <p>(a) The human remains or archaeological resources have been completely removed from the site; or</p> <p>(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource.</p>	<p>Proposed change to replace outdated language and to remove the discovery of human remains from this section to the new 30.32D.225 Inadvertent discovery of skeletal human remains below.</p> <p>Language is modified to clarify that the director has the discretionary ability to issue a stop work order.</p> <p>Proposed change to replace an outdated reference to DAHP.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Language was modified to clarify that the director or designee is a part of the mitigation negotiation.</p>	
<p>30.32D.225 Inadvertent discovery of</p>	<p>30.32D.225 Inadvertent discovery of human remains.</p> <p>(1) If, during the course of construction, earth movement, clearing, or other site disturbance,</p>	<p>This section has been added to conform to state law for the inadvertent discovery of skeletal human remains. HB 2624 (2008)</p>	

<p>Index # - File Name: 1_0028 Attachment - draft changes Chap 30.32D.pdf Human remains (new section)</p>	<p><u>human remains are encountered, all work shall cease immediately in an area large enough to protect the find.</u></p> <p><u>(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.</u></p> <p><u>3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.</u></p> <p><u>(4) The property owner shall also promptly notify the DAHP and the director. Under these circumstances, the director or designee may issue a stop work order pursuant to chapter 30.85 SCC.</u></p> <p><u>(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.</u></p>	<p>established the procedure for inadvertent discovery.</p> <p>In addition to the requirements of state law. SCC 32D.225(4) includes a requirement to notify the director and the DAHP.</p>	
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Piona, Amber

From: Kaehler, Gretchen
Sent: Monday, January 4, 2021 1:10 PM
To: Leonard Forsman
Cc: Dennis Lewarch; Harper, Lacey
Subject: Re: Snohomish County Code changes to 30.32.D for Cultural
Attachments: Track Changes to 30.32D_12082020.docx; Proposed changes to 30.32D Historic and Archaeological Resources.docx

Dear Chairman Forsman,

Snohomish County is proposing code changes to Chapter 30.32D Historic 30.32D Historic and Archaeological Resources in order to comply with new state laws and to clarify language and intent. Snohomish County is also committed to being proactive in regard to early identification of archaeological resources and sites. The code change are proposed to:

- Update code language to align with updated state laws for human skeletal remains and abandoned cemeteries
- Update language to clarify and align with state and professional terminology
- Provide flexibility for the county to be able to require professional archaeological surveys

I have provided two attachments. One shows the changes that were made to the original code, Track Changes to 30.32D, and the other is the proposed code changes and rationale for changes. Please feel free to contact me if you have any questions. We appreciate any comments you may have on the code changes by January 31, 2021.

Respectfully

Gretchen

Gretchen Kaehler
Snohomish County Archaeologist/CLG Coordinator
Cultural Resources Division
425-388-3432 (office)
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ODRAFT

**Chapter 30.32D
HISTORIC AND ARCHAEOLOGICAL RESOURCES**

Sections:

30.32D.010	Purpose and applicability.
30.32D.020	Creation of county register of historic places.
30.32D.030	Designation of property on county register.
30.32D.040	Criteria for designation of property on county register.
30.32D.050	Removal of properties from county register.
30.32D.060	Alteration or demolition of property on county register.
30.32D.070	Procedure for obtaining certificate of appropriateness or waiver.
30.32D.075	Exemptions.
30.32D.080	Review process for request for certificate of appropriateness.
30.32D.090	Review process for waiver of certificate of appropriateness.
30.32D.100	Applicability of zoning requirements.
30.32D.200	Archaeology site <u>Archaeological survey</u> report.
30.32D.210	Project or permit approval for property on state register as an archaeological resource.
30.32D.220	Human remains or archaeological resources found on a site.
30.32D.300	Appeals.

30.32D.010 Purpose and applicability.

(1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to

- (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history;
- (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history;
- (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts;

(d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and

(e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects.

(f) Comply with all federal and state laws related to regulation of archaeological and cultural sites.

(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws on both public and private lands. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; ~~and~~ Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."

(3) This chapter applies to:

(a) Properties eligible for and on the Snohomish ~~county~~ County Register of Historic Places established pursuant to SCC 30.32D.020; and

(b) Properties ~~listed-recorded~~ on the Washington ~~State Archaeological Site Inventory Information System for Architectural and Archaeological Records Data (WISAARD)~~.

(4) Regulations concerning the Snohomish County Historic Preservation Commission are in chapter 2.96 SCC; regulations concerning the state tax incentive program for qualifying historic properties are located in chapter 4.31 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.020 Creation of county register of historic places.

There is hereby established a Snohomish county register of historic places that identifies historic buildings, sites, structures, objects, and districts within the county. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.030 Designation of property on county register.

(1) Listing on the county register is an honorary designation denoting significant association with the historic, architectural, archaeological, engineering, or cultural heritage of the community. Property is listed individually or as properties that as a group contribute to the historical integrity of an historic district.

(2) The historic preservation commission, as established in Title 2 SCC, or any person may nominate a building, site, structure, object, or district for placement on the county register by submitting a letter to the historic preservation commission.

(3) The county shall make a written recommendation to the historic preservation commission regarding the nomination and notify the property owner of the nomination, if necessary. If the property owner consents to the nomination, the department shall schedule a public meeting before the historic preservation commission to consider the nomination. The county shall publish notice of the public meeting in accordance with SCC 30.70.045 and provide mailed notice to the property owner, occupant, and nominator.

(4) The historic preservation commission shall consider the nomination at the public meeting. If the commission finds that the nominated property meets the criteria for designation established in SCC 30.32D.040, the commission shall designate the property on the county register. If the property is so designated by the commission, the department shall indicate the designation on county zoning maps by placing "HR" on the property.

(5) The county shall provide notice of the historic preservation commission's decision as required in SCC 30.32D.030. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 12-018, May 2, 2012, Eff date May 21, 2012).

30.32D.040 Criteria for designation of property on county register.

(1) The historic preservation commission may designate a property or properties on the county register only if the building, site, structure, object, or district is at least fifty years old or, in the event that the property is of exceptional historical significance as determined by the commission, at least forty years old.

(2) The commission will also consider whether the nominated property or properties:

- (a) Possess significant and important association with the history, architecture, archaeology, engineering, or cultural heritage of the county as documented in texts used as standard references by professionals in these disciplines;
- (b) Possess one or more of the following:
 - (i) integrity of location, meaning the building, structure or object has remained on the same site for fifty years or more;
 - (ii) integrity of design, meaning the design of the building, structure, object, or the structures contributing to a district have remained unchanged for fifty years or more;
 - (iii) integrity of materials, meaning the materials used in the building, object or structure are either original or have been reproduced to replicate, as closely as possible, the original materials; or
 - (iv) integrity of workmanship, meaning the building must exhibit original workmanship, or if repairs or reconstruction of a building, structure, site or object have been or need to be carried out, the methods used are as similar to the original construction methods as possible. If modern construction methods were used, the resulting repair or reconstruction must replicate the original workmanship as closely as possible;
- (c) Meet at least one of the following criteria:
 - (i) the property is associated with events that made an important contribution to national, state, or local history;
 - (ii) the property embodies architectural characteristics of a distinctive and defined type, period, style, or method of design or construction, as documented in professional architectural and historic preservation publications, or represents a significant and distinguishable entity whose components may lack individual distinction;
 - (iii) the property is an outstanding work of a recognized designer, builder, or architect whose work has been documented in professional publications as having made a substantial contribution to the artistic and aesthetic values of the community;
 - (iv) the property exemplifies or reflects elements of Snohomish county's cultural, social, economic, political, aesthetic, engineering or architectural history;
 - (v) the property is associated with the life of a person of documented importance in national, state, or local history;

- (vi) the property yields or is likely to yield important archaeological information related to history or prehistory;
- (vii) the property contains a building or structure removed from its original location but which has significant and documented architectural value, or which is the only surviving building or structure associated with an historic person or event;
- (viii) the property is a birthplace or grave of an historical figure of documented importance which is the only surviving building, structure or site associated with that person;
- (ix) the property is a cemetery which derives its primary significance from age, design features, or association with historic events or cultural patterns;
- (x) the property contains a building that has been reconstructed in an historically accurate manner on the original site; or
- (xi) the property is an example of folk architecture and design that is creative and unique, but which does not fit into formal architectural or historical categories. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.050 Removal of properties from county register.

- (1) Initiation of removal of a property from the local register may occur in one of the following ways:
 - (a) A property owner may request review of a property for removal from the local register by submitting a written request to the historic preservation commission; or
 - (b) The historic preservation commission may initiate removal.
- (2) The historic preservation commission will schedule a public meeting for consideration of removal of any property from the local register. If removal is requested by the property owner, the commission must schedule the public meeting within 30 days of receipt of the request for removal. The department shall provide notice of the public meeting in accordance with SCC 30.32D.030(3).
- (3) If the property owner has requested removal, the property owner must notify the historic preservation commission within one week of the conclusion of the public meeting that
 - (a) The property will be removed from the local register; or

(b) The property owner rescinds the removal request.

Failure by the property owner to so notify the historic preservation commission will result in the property remaining on the register.

(4) The historic preservation commission may remove property from the local register without the owner's consent if alterations to the property result in loss of historical integrity. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.060 Alteration or demolition of property on county register.

(1) An owner of property listed on the local register who proposes any physical alteration or rehabilitation of the exterior of a register property, or of interior features that are listed as contributing to the significance of the property, excluding ordinary repair, maintenance and emergency repairs, must request and receive a certificate of appropriateness from the historic preservation commission for the proposed work. If a building permit is required pursuant to subtitle 30.5 SCC for the work, issuance of a certificate of appropriateness will be a precondition to issuance of a building permit.

(2) An owner who proposes to partially or completely demolish a register property must request and receive from the historic preservation commission a waiver of a certificate of appropriateness as a precondition to issuance of a permit for demolition. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.070 Procedure for obtaining certificate of appropriateness or waiver.

(1) The applicant for a permit to perform any work described in SCC 30.32D.060 shall submit a copy of the building permit or demolition permit application to the historic preservation commission along with a request to be considered for a certificate of appropriateness or waiver.

(2) The commission shall consider a request for a certificate of appropriateness or waiver at a public meeting. The department shall publish notice of the meeting as required in SCC 30.70.045 and provide mailed notice to the applicant and the property owner.

(3) The department shall not issue a building permit or a demolition permit for a property listed on the local register until a certificate of appropriateness or waiver is issued. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.075 Exemptions.

Ordinary repair and maintenance and emergency repair do not require a certificate of appropriateness or review by the historic preservation commission. For purposes of this chapter, ordinary repair and maintenance means work for which no county permit is required by law, and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, the real property or structure and appurtenances thereto, and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage. For purposes of this chapter, emergency repair means work necessary to prevent destruction or disrepair to real property immediately threatened or damaged by fire, flood, earthquake, vandalism or other disaster. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.080 Review process for request for certificate of appropriateness.

(1) An applicant must include within a request for a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule. Information required by the commission will include information responding to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, referred to in WAC 254-20-100 and used by the Washington State Advisory Council on Historic Preservation and by the commission. A copy of the standards is available at the department front counter.

(2) When responding to a request for a certificate of appropriateness, the historic preservation commission shall review all features of the property that are proposed for alteration and that are listed as contributing to the property's designation on the local register nomination form.

(3) The commission shall meet with the applicant and review the proposed work according to the design review criteria established by administrative rule.

(4) The commission shall complete its review and make its recommendation within forty-five days of the date of receipt of the application. If necessary, the commission may extend the review period for up to an additional twenty days. If no recommendation has been made within sixty-five days, the commission is considered to have recommended approval.

- (5) The commission will provide the applicant with its written recommendation, stating the findings of fact and conclusions leading to the recommendation. Any conditions agreed to by the applicant in the review process and accepted by the commission shall become conditions of approval for any relevant permit granted and be incorporated in the commission's decision to grant a certificate of appropriateness.
- (6) If the applicant agrees to the commission's recommendation, the commission shall issue a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (7) If the applicant does not agree to the commission's recommendation and any alteration to the property is determined to be inappropriate by the commission, the property may be removed by the commission from the local register. Once the property is removed from the local register, the requirement of SCC 30.32D.060(1) shall no longer apply. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.090 Review process for waiver of certificate of appropriateness.

- (1) An applicant must include within a request for a waiver of a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule.
- (2) The commission shall review the request for a waiver in accordance with the commission's administrative rules. The commission shall consider whether there is any feasible alternative to the demolition proposed.
- (3) Following review of the request, the commission shall issue a waiver of a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (4) As a part of the issuance of the waiver, the commission may recommend to the building official that the applicant mitigate the demolition of register property. The commission shall support any recommended requirement of mitigation with findings of fact and conclusions. Mitigation may include, but is not limited to, an identification plaque, use of an architectural element of an historic building in new construction, and/or buffering or protection of remaining elements of an historic resource. The building official shall adopt a commission recommendation for mitigation as a condition of approval of any permit granted for partial or complete demolition of the property.
- (5) After the property is partially or completely demolished, the commission shall remove the property from the local register. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.100 Applicability of zoning requirements.

Properties designated on the local register shall be subject to the provisions set forth in this title. Nothing contained in this chapter shall be construed as repealing, modifying, or waiving any other provision of this title. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.200 ~~Archaeology site~~ Archaeological Survey report.

- (1) Known archaeological sites are recorded on ~~the Washington State Department of Archaeology and Historic Preservation's Geographic Information System~~ WISAARD and or information from datasharing agreements with DAHP.
- (2) An archaeological site may cover only a portion of a property, parcel, or lot and may ~~be located on~~ extend onto more than one property, parcel, or lot.
- (3) Completion of ~~an archaeology site report~~ a professional archaeology survey or ~~relocation of the project to avoid the known archaeological site shall be required for:~~
 - (a) ~~Shall be required for~~ Anyany construction, earth movement, clearing, or other siteland disturbance of a known archaeological site;
 - (b) ~~Shall be required for~~ Anyany development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map.
 - (c) May be required for any development application when ~~Information~~ information provided by Tribes or County and/or state professional archaeologists indicates that the project location has a high probability for containing archaeological resources.
- (4) ~~An archaeology site report~~ A professional archaeological survey required under subsection (3)(a) of this section shall:
 - (a) Be written by a professional archaeologist as defined in WAC 25-48-020 RCW 27.53.030(11);
 - (b) Be submitted to the department by the property owner or project proponent;
 - (c) Include the location, ~~condition,~~ and extent of the archaeological resources located on site ~~and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and~~

(d) Include the results of consultation with affected Indian ~~tribes on proposed actions to avoid or mitigate impacts of the proposed project.~~ tribes;

(e) Meet state and professional standards for cultural resources reporting; and

(f) Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.

(5) A professional archaeological survey report required under subsection (3)(b) or (3)(c) of this section shall:

(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);

(b) Be submitted to the department by the property owner or project proponent;

(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and

(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.

~~(5)(6) The department shall provide a copy of the archaeological site archaeological survey report to any affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, DAHP, at the applicant's expense.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007; Amended by Amended Ord. 15-027, May 6, 2015, Eff date May 24, 2015).

30.32D.210 Project or permit approval for property on state register as an archaeological resource.

(1) The ~~county approving authority~~ director shall not issue a permit for any development activity or project approval requiring ~~an archaeology site professional archeological survey~~ report pursuant to SCC 30.32D.200 without considering the ~~archaeology site professional archeological survey~~ report and any comments on the report submitted by an affected Indian tribe and any additional archaeological work and permitting required under Chapter 27.53 RCW.

~~(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides documentation of the request for tribal comments to the department.~~

~~(2)(3) Based on the information contained in the archaeology site professional archeological survey report and any comments submitted by the affected Indian tribe(s) obtained during the consultation-review process, the county approving authority director will condition the permit or project approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.220 ~~Human remains or~~ Inadvertent discovery of archaeological resources ~~found on a site.~~

(1) If, during the course of construction, earth movement, clearing, or other ~~site land~~ disturbance, ~~human remains or~~ archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the ~~department director~~ may issue a stop work order pursuant to chapter 30.85 SCC.

(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the ~~state office of archaeology and historic preservation~~ Washington State Department of Archaeology and Historic Preservation (DAHP).

(3) ~~After Ground disturbance may not proceed until~~ consultation with any affected Indian tribe and the ~~state office of archaeology and historic preservation DAHP is completed.~~, the state shall ~~determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within the site as a preservation area. No ground disturbance is permitted within a preservation area. This designation shall not affect underlying zoning.~~

(4) ~~Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. The preservation area designation shall remain on the appropriate area within a site until~~

~~(a) The human remains or archaeological resources have been completely removed from the site; or~~

~~(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.225 Inadvertent discovery of human remains.

(1) If, during the course of construction, earth movement, clearing, or other site disturbance, human remains are encountered, all work shall cease immediately in an area large enough to protect find.

(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.

(3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.

(4) The property owner shall also promptly notify the DAHP, the director, and the Snohomish County Archaeologist. Under these circumstances, the director may issue a stop work order pursuant to chapter 30.85 SCC.

(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.

30.32D.300 Appeals.

Any building permit issued with conditions imposed pursuant to this chapter may be appealed as a Type 1 decision pursuant to chapter 30.71 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

The Snohomish County Code is current through legislation passed October 3, 2018.

Disclaimer: The Clerk of the Council's Office retains the official version of the Snohomish County Code. The web version is updated as new ordinances become effective, and includes new ordinances through 18-053. New ordinances do not necessarily become effective in chronological or numerical order. Users should contact the Clerk of the Council's Office for information on legislation not yet reflected in the web version.

[County Website: snohomishcountywa.gov](http://snohomishcountywa.gov)

County Telephone: (425) 388-3494

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Proposed Changes 30.32D

Code Section	Proposed Change	Rationale	Comments
<p>30.32D.010 Purpose and Applicability</p>	<p>30.32.D.010 Purpose and applicability. (1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to: (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history; (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history; (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts; (d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and (e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects; and (f) <u>Comply with all federal and state laws related to regulation of archaeological and cultural sites.</u></p>	<p>Language proposed to be added to clarify that one of the purposes of this section is comply with federal and state law for archaeological and cultural sites.</p>	
	<p>(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws <u>on both public and private lands</u>. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; and Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."</p>	<p>HB 2624 (2008) establishes that Native American grave sites are protected on both public and private lands. Proposed change to reflect state regulation. Additionally, HB 2624 changed several sections of the Revised Code of Washington, and SCC 30.32D(2) now includes references to the RCW sections on Human Remains and Abandoned and Historic Cemeteries and Historic Graves.</p>	
	<p>(3) This chapter applies to: (a) Properties eligible for and on the Snohomish county <u>County</u> Register of Historic Places established pursuant to SCC30.32D.020; and (b) Properties listed <u>recorded</u> on the Washington State Archaeological Site Inventory <u>Information System for Architectural and Archaeological Records Data (WISAARD)</u>.</p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation (DAHP)'s database and language changed to clarify that information is recorded not listed in the database.</p>	

Archeology Code Project

<p>Index # File Name: 30.32D.200 Archaeology site Survey report.</p> <p>Archaeological Survey Report</p>	<p>(1) Known archaeological sites are recorded on the Washington State Department of Archaeology and Historic Preservation's Geographic Information System WISAARD and or information from data sharing agreements with DAHP.</p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation(DAHP)'s database and to reference the data sharing agreement that the county has with DAHP.</p>	
	<p>(2) An archaeological site may cover only a portion of a property, parcel, or lot and may be located on extend onto more than one property, parcel or lot.</p>	<p>Proposed change for clarity.</p>	
	<p>(3) Completion of an archaeology site report a professional archaeological survey or relocation of the property to avoid the known archaeological site shall be required for:</p> <p>(a) Shall be required for any construction, earth movement, clearing or other site <u>land</u> disturbance of a known archaeological site;</p> <p>(b) Shall be required for any development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map;</p> <p>(c) May be required for any development application when information provided by Tribes or County and/or State professional archaeologists indicates that the project location has a high probability for containing archaeological resources.</p>	<p>Proposed change to introduce a third situation in which archaeological survey reports may be required, based on information provided by County and/or State professional archaeologists that the location has a high probability for containing archaeological resources.</p>	
	<p>(4) An archaeology site report A professional archaeological survey required under subsection (3)(a) of this section shall:</p> <p>(a) Be written by a professional archaeologist as defined in WAC 25.48.020 RCW 27.53.030(11);</p> <p>(b) Be submitted to the department by the property owner or project proponent;</p> <p>(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and</p> <p>(d) Include the results of consultation with affected Indian tribe on proposed actions to avoid or mitigate impacts of the proposed project tribes;</p> <p>(e) <u>Meet state and professional standards for cultural resources reporting; and</u></p> <p>(f) <u>Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.</u></p>	<p>Proposed change to update the reference to state law, and to ensure that archaeological survey reports for projects on known archaeological sites meet state and professional standards for cultural resource reporting.</p>	

Archeology Code Project

<p>Index # - File Name: 4 0030 Attachment - draft changes, Chp 30.32D.pdf</p>	<p>(5) A professional archaeological survey report required under subsection (3)(b) or 3(c) of this section shall: <u>(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);</u> <u>(b) Be submitted to the department by the property owner or project proponent;</u> <u>(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and</u> <u>(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.</u></p>	<p>Proposed change to clarify the requirements for archaeological survey reports required under SCC 30.32D.200(3)(b) and SCC 60.32D.200(3)(c)</p>	
	<p>(5)<u>(6)</u> The department shall provide a copy of the archaeological site archaeological survey report to any affected Indian tribes and Washington State Department of Archaeology and Historic Preservation DAHP at the applicant's expense.</p>	<p>Proposed change to update language and to remove text that put the expense of providing copies of the archaeological survey report on the applicant. Submittal of reports is done electronically and does not incur an expense.</p>	
<p>30.32D.210 Project or permit approval for property on state register as an archaeological resource</p>	<p>(1) The county approving authority <u>director</u> shall not issue a permit for any development activity or project approval requiring an archaeology site <u>a professional archaeological survey report</u> pursuant to SCC 30.32D.200 without considering the archaeology site <u>professional archaeological survey report</u> and any comments on the report submitted by an affected Indian tribe <u>and any additional archaeological work and permitting required under Chapter 27.53 RCW.</u></p>	<p>Proposed change to comply with updated language for archaeological survey reports, and to include a reference to the requirements of state law. Language is modified to clarify that the director is the county approving authority</p>	
	<p>(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides <u>documentation of the request for tribal comments to the department.</u></p>	<p>Proposed removal to better align with state law and best tribal coordination practices.</p>	
	<p>(3) (2) Based on the information contained in the archaeology site <u>professional archaeological survey report</u> and any comments submitted by the affected Indian tribe(s) obtained during the <u>consultation review</u> process, the county approving <u>director</u> will condition the permit or approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with <u>federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.</u></p>	<p>Proposed change to update language and to include a reference to the requirements of state law. Language is modified to clarify that the director is the conditioning authority.</p>	

<p>Index #: 30.32D.225 Inadvertent discovery of archaeological resources</p>	<p>30.32D.220 Human remains or inadvertent discovery of archaeological resources found on a site.</p> <p>(1) If, during the course of construction, earth movement, clearing or other site land disturbance, human remains or archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the department director may issue a stop work order pursuant to chapter 30.85 SCC.</p> <p>(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the state office of archaeology and historic preservation <u>Washington State Department of Archaeology and Historic Preservation (DAHP).</u></p> <p>(3) After <u>Ground disturbance may not proceed until</u> consultation with any affected Indian tribe and the state office of archaeology and historic preservation <u>DAHP is completed.</u>, the state shall determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within a preservation area. This designation shall not affect underlying zoning.</p> <p>(4) <u>Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. The preservation area designation shall remain on the appropriate area within a site until</u></p> <p>(a) The human remains or archaeological resources have been completely removed from the site; or</p> <p>(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource.</p>	<p>Proposed change to replace outdated language and to remove the discovery of human remains from this section to the new 30.32D.225 Inadvertent discovery of skeletal human remains below.</p> <p>Language is modified to clarify that the director has the discretionary ability to issue a stop work order.</p> <p>Proposed change to replace an outdated reference to DAHP.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Language was modified to clarify that the director or designee is a part of the mitigation negotiation.</p>	
<p>30.32D.225 Inadvertent discovery of</p>	<p>30.32D.225 Inadvertent discovery of human remains.</p> <p>(1) <u>If, during the course of construction, earth movement, clearing, or other site disturbance,</u></p>	<p>This section has been added to conform to state law for the inadvertent discovery of skeletal human remains. HB 2624 (2008)</p>	

<p>Index # - File Name: 1_0030 Attachment - draft changes, Chpt 30.32D.pdf Human remains (new section)</p>	<p><u>human remains are encountered, all work shall cease immediately in an area large enough to protect the find.</u></p> <p><u>(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.</u></p> <p><u>3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.</u></p> <p><u>(4) The property owner shall also promptly notify the DAHP and the director. Under these circumstances, the director or designee may issue a stop work order pursuant to chapter 30.85 SCC.</u></p> <p><u>(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.</u></p>	<p>established the procedure for inadvertent discovery.</p> <p>In addition to the requirements of state law. SCC 32D.225(4) includes a requirement to notify the director and the DAHP.</p>	
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Piona, Amber

From: Kaehler, Gretchen
Sent: Monday, January 4, 2021 2:13 PM
To: sedwards@swinomish.nsn.us
Cc: Josephine Jefferson; Harper, Lacey
Subject: FW: Snohomish County Code changes to 30.32.D for Historic and Archaeological Resources
Attachments: Track Changes to 30.32D_12082020.docx; Proposed changes to 30.32D Historic and Archaeological Resources.docx

Dear Chairman Edwards,

Snohomish County is proposing code changes to Chapter 30.32D Historic 30.32D Historic and Archaeological Resources in order to comply with new state laws and to clarify language and intent. Snohomish County is also committed to being proactive in regard to early identification of archaeological resources and sites. The code change are proposed to:

- Update code language to align with updated state laws for human skeletal remains and abandoned cemeteries
- Update language to clarify and align with state and professional terminology
- Provide flexibility for the county to be able to require professional archaeological surveys

I have provided two attachments. One shows the changes that were made to the original code, Track Changes to 30.32D, and the other is the proposed code changes and rationale for changes. Please feel free to contact me if you have any questions. We appreciate any comments you may have on the code changes by January 31, 2021.

Respectfully

Gretchen

Gretchen Kaehler
Snohomish County Archaeologist/CLG Coordinator
Cultural Resources Division
425-388-3432 (office)
425-359-1504 (mobile)

ODRAFT

**Chapter 30.32D
HISTORIC AND ARCHAEOLOGICAL RESOURCES**

Sections:

30.32D.010	Purpose and applicability.
30.32D.020	Creation of county register of historic places.
30.32D.030	Designation of property on county register.
30.32D.040	Criteria for designation of property on county register.
30.32D.050	Removal of properties from county register.
30.32D.060	Alteration or demolition of property on county register.
30.32D.070	Procedure for obtaining certificate of appropriateness or waiver.
30.32D.075	Exemptions.
30.32D.080	Review process for request for certificate of appropriateness.
30.32D.090	Review process for waiver of certificate of appropriateness.
30.32D.100	Applicability of zoning requirements.
30.32D.200	Archaeology site <u>Archaeological survey</u> report.
30.32D.210	Project or permit approval for property on state register as an archaeological resource.
30.32D.220	Human remains or archaeological resources found on a site.
30.32D.300	Appeals.

30.32D.010 Purpose and applicability.

(1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to

- (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history;
- (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history;
- (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts;

(d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and

(e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects.

(f) Comply with all federal and state laws related to regulation of archaeological and cultural sites.

(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws on both public and private lands. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; ~~and~~ Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."

(3) This chapter applies to:

(a) Properties eligible for and on the Snohomish ~~county~~ County Register of Historic Places established pursuant to SCC 30.32D.020; and

(b) Properties ~~listed-recorded~~ on the Washington ~~State Archaeological Site Inventory Information System for Architectural and Archaeological Records Data (WISAARD)~~.

(4) Regulations concerning the Snohomish County Historic Preservation Commission are in chapter 2.96 SCC; regulations concerning the state tax incentive program for qualifying historic properties are located in chapter 4.31 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.020 Creation of county register of historic places.

There is hereby established a Snohomish county register of historic places that identifies historic buildings, sites, structures, objects, and districts within the county. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.030 Designation of property on county register.

(1) Listing on the county register is an honorary designation denoting significant association with the historic, architectural, archaeological, engineering, or cultural heritage of the community. Property is listed individually or as properties that as a group contribute to the historical integrity of an historic district.

(2) The historic preservation commission, as established in Title 2 SCC, or any person may nominate a building, site, structure, object, or district for placement on the county register by submitting a letter to the historic preservation commission.

(3) The county shall make a written recommendation to the historic preservation commission regarding the nomination and notify the property owner of the nomination, if necessary. If the property owner consents to the nomination, the department shall schedule a public meeting before the historic preservation commission to consider the nomination. The county shall publish notice of the public meeting in accordance with SCC 30.70.045 and provide mailed notice to the property owner, occupant, and nominator.

(4) The historic preservation commission shall consider the nomination at the public meeting. If the commission finds that the nominated property meets the criteria for designation established in SCC 30.32D.040, the commission shall designate the property on the county register. If the property is so designated by the commission, the department shall indicate the designation on county zoning maps by placing "HR" on the property.

(5) The county shall provide notice of the historic preservation commission's decision as required in SCC 30.32D.030. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 12-018, May 2, 2012, Eff date May 21, 2012).

30.32D.040 Criteria for designation of property on county register.

(1) The historic preservation commission may designate a property or properties on the county register only if the building, site, structure, object, or district is at least fifty years old or, in the event that the property is of exceptional historical significance as determined by the commission, at least forty years old.

(2) The commission will also consider whether the nominated property or properties:

- (a) Possess significant and important association with the history, architecture, archaeology, engineering, or cultural heritage of the county as documented in texts used as standard references by professionals in these disciplines;
- (b) Possess one or more of the following:
 - (i) integrity of location, meaning the building, structure or object has remained on the same site for fifty years or more;
 - (ii) integrity of design, meaning the design of the building, structure, object, or the structures contributing to a district have remained unchanged for fifty years or more;
 - (iii) integrity of materials, meaning the materials used in the building, object or structure are either original or have been reproduced to replicate, as closely as possible, the original materials; or
 - (iv) integrity of workmanship, meaning the building must exhibit original workmanship, or if repairs or reconstruction of a building, structure, site or object have been or need to be carried out, the methods used are as similar to the original construction methods as possible. If modern construction methods were used, the resulting repair or reconstruction must replicate the original workmanship as closely as possible;
- (c) Meet at least one of the following criteria:
 - (i) the property is associated with events that made an important contribution to national, state, or local history;
 - (ii) the property embodies architectural characteristics of a distinctive and defined type, period, style, or method of design or construction, as documented in professional architectural and historic preservation publications, or represents a significant and distinguishable entity whose components may lack individual distinction;
 - (iii) the property is an outstanding work of a recognized designer, builder, or architect whose work has been documented in professional publications as having made a substantial contribution to the artistic and aesthetic values of the community;
 - (iv) the property exemplifies or reflects elements of Snohomish county's cultural, social, economic, political, aesthetic, engineering or architectural history;
 - (v) the property is associated with the life of a person of documented importance in national, state, or local history;

- (vi) the property yields or is likely to yield important archaeological information related to history or prehistory;
- (vii) the property contains a building or structure removed from its original location but which has significant and documented architectural value, or which is the only surviving building or structure associated with an historic person or event;
- (viii) the property is a birthplace or grave of an historical figure of documented importance which is the only surviving building, structure or site associated with that person;
- (ix) the property is a cemetery which derives its primary significance from age, design features, or association with historic events or cultural patterns;
- (x) the property contains a building that has been reconstructed in an historically accurate manner on the original site; or
- (xi) the property is an example of folk architecture and design that is creative and unique, but which does not fit into formal architectural or historical categories. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.050 Removal of properties from county register.

- (1) Initiation of removal of a property from the local register may occur in one of the following ways:
 - (a) A property owner may request review of a property for removal from the local register by submitting a written request to the historic preservation commission; or
 - (b) The historic preservation commission may initiate removal.
- (2) The historic preservation commission will schedule a public meeting for consideration of removal of any property from the local register. If removal is requested by the property owner, the commission must schedule the public meeting within 30 days of receipt of the request for removal. The department shall provide notice of the public meeting in accordance with SCC 30.32D.030(3).
- (3) If the property owner has requested removal, the property owner must notify the historic preservation commission within one week of the conclusion of the public meeting that
 - (a) The property will be removed from the local register; or

(b) The property owner rescinds the removal request.

Failure by the property owner to so notify the historic preservation commission will result in the property remaining on the register.

(4) The historic preservation commission may remove property from the local register without the owner's consent if alterations to the property result in loss of historical integrity. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.060 Alteration or demolition of property on county register.

(1) An owner of property listed on the local register who proposes any physical alteration or rehabilitation of the exterior of a register property, or of interior features that are listed as contributing to the significance of the property, excluding ordinary repair, maintenance and emergency repairs, must request and receive a certificate of appropriateness from the historic preservation commission for the proposed work. If a building permit is required pursuant to subtitle 30.5 SCC for the work, issuance of a certificate of appropriateness will be a precondition to issuance of a building permit.

(2) An owner who proposes to partially or completely demolish a register property must request and receive from the historic preservation commission a waiver of a certificate of appropriateness as a precondition to issuance of a permit for demolition. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.070 Procedure for obtaining certificate of appropriateness or waiver.

(1) The applicant for a permit to perform any work described in SCC 30.32D.060 shall submit a copy of the building permit or demolition permit application to the historic preservation commission along with a request to be considered for a certificate of appropriateness or waiver.

(2) The commission shall consider a request for a certificate of appropriateness or waiver at a public meeting. The department shall publish notice of the meeting as required in SCC 30.70.045 and provide mailed notice to the applicant and the property owner.

(3) The department shall not issue a building permit or a demolition permit for a property listed on the local register until a certificate of appropriateness or waiver is issued. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.075 Exemptions.

Ordinary repair and maintenance and emergency repair do not require a certificate of appropriateness or review by the historic preservation commission. For purposes of this chapter, ordinary repair and maintenance means work for which no county permit is required by law, and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, the real property or structure and appurtenances thereto, and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage. For purposes of this chapter, emergency repair means work necessary to prevent destruction or disrepair to real property immediately threatened or damaged by fire, flood, earthquake, vandalism or other disaster. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.080 Review process for request for certificate of appropriateness.

(1) An applicant must include within a request for a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule. Information required by the commission will include information responding to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, referred to in WAC 254-20-100 and used by the Washington State Advisory Council on Historic Preservation and by the commission. A copy of the standards is available at the department front counter.

(2) When responding to a request for a certificate of appropriateness, the historic preservation commission shall review all features of the property that are proposed for alteration and that are listed as contributing to the property's designation on the local register nomination form.

(3) The commission shall meet with the applicant and review the proposed work according to the design review criteria established by administrative rule.

(4) The commission shall complete its review and make its recommendation within forty-five days of the date of receipt of the application. If necessary, the commission may extend the review period for up to an additional twenty days. If no recommendation has been made within sixty-five days, the commission is considered to have recommended approval.

- (5) The commission will provide the applicant with its written recommendation, stating the findings of fact and conclusions leading to the recommendation. Any conditions agreed to by the applicant in the review process and accepted by the commission shall become conditions of approval for any relevant permit granted and be incorporated in the commission's decision to grant a certificate of appropriateness.
- (6) If the applicant agrees to the commission's recommendation, the commission shall issue a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (7) If the applicant does not agree to the commission's recommendation and any alteration to the property is determined to be inappropriate by the commission, the property may be removed by the commission from the local register. Once the property is removed from the local register, the requirement of SCC 30.32D.060(1) shall no longer apply. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.090 Review process for waiver of certificate of appropriateness.

- (1) An applicant must include within a request for a waiver of a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule.
- (2) The commission shall review the request for a waiver in accordance with the commission's administrative rules. The commission shall consider whether there is any feasible alternative to the demolition proposed.
- (3) Following review of the request, the commission shall issue a waiver of a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (4) As a part of the issuance of the waiver, the commission may recommend to the building official that the applicant mitigate the demolition of register property. The commission shall support any recommended requirement of mitigation with findings of fact and conclusions. Mitigation may include, but is not limited to, an identification plaque, use of an architectural element of an historic building in new construction, and/or buffering or protection of remaining elements of an historic resource. The building official shall adopt a commission recommendation for mitigation as a condition of approval of any permit granted for partial or complete demolition of the property.
- (5) After the property is partially or completely demolished, the commission shall remove the property from the local register. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.100 Applicability of zoning requirements.

Properties designated on the local register shall be subject to the provisions set forth in this title. Nothing contained in this chapter shall be construed as repealing, modifying, or waiving any other provision of this title. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.200 ~~Archaeology site~~ Archaeological Survey report.

- (1) Known archaeological sites are recorded on ~~the Washington State Department of Archaeology and Historic Preservation's Geographic Information System WISAARD and or information from datasharing agreements with DAHP.~~
- (2) An archaeological site may cover only a portion of a property, parcel, or lot and may ~~be located on~~ extend onto more than one property, parcel, or lot.
- (3) Completion of ~~an archaeology site report~~ a professional archaeology survey ~~or relocation of the project to avoid the known archaeological site shall be required for:~~
 - (a) ~~Shall be required for Anyany~~ construction, earth movement, clearing, or other siteland disturbance of a known archaeological site;
 - (b) ~~Shall be required for Anyany~~ development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map.
 - (c) May be required for any development application when information provided by Tribes or County and/or state professional archaeologists indicates that the project location has a high probability for containing archaeological resources.
- (4) ~~An archaeology site report~~ A professional archaeological survey required under subsection (3)(a) of this section shall:
 - (a) Be written by a professional archaeologist as defined in WAC 25-48-020 RCW 27.53.030(11);
 - (b) Be submitted to the department by the property owner or project proponent;
 - (c) Include the location, ~~condition,~~ and extent of the archaeological resources located on site ~~and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and~~

(d) Include the results of consultation with affected Indian ~~tribes on proposed actions to avoid or mitigate impacts of the proposed project.~~ tribes;

(e) Meet state and professional standards for cultural resources reporting; and

(f) Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.

(5) A professional archaeological survey report required under subsection (3)(b) or (3)(c) of this section shall:

(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);

(b) Be submitted to the department by the property owner or project proponent;

(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and

(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.

~~(5)(6) The department shall provide a copy of the archaeological site archaeological survey report to any affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, DAHP, at the applicant's expense.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007; Amended by Amended Ord. 15-027, May 6, 2015, Eff date May 24, 2015).

30.32D.210 Project or permit approval for property on state register as an archaeological resource.

(1) The ~~county approving authority~~ director shall not issue a permit for any development activity or project approval requiring ~~an archaeology site professional archeological survey~~ report pursuant to SCC 30.32D.200 without considering the ~~archaeology site professional archeological survey~~ report and any comments on the report submitted by an affected Indian tribe and any additional archaeological work and permitting required under Chapter 27.53 RCW.

~~(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides documentation of the request for tribal comments to the department.~~

~~(2)(3) Based on the information contained in the archaeology site professional archeological survey report and any comments submitted by the affected Indian tribe(s) obtained during the consultation review process, the county approving authority director will condition the permit or project approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.220 ~~Human remains or~~ Inadvertent discovery of archaeological resources ~~found on a site.~~

(1) If, during the course of construction, earth movement, clearing, or other ~~site land~~ disturbance, ~~human remains or~~ archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the ~~department director~~ may issue a stop work order pursuant to chapter 30.85 SCC.

(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the ~~state office of archaeology and historic preservation~~ Washington State Department of Archaeology and Historic Preservation (DAHP).

(3) ~~After Ground disturbance may not proceed until~~ consultation with any affected Indian tribe and the ~~state office of archaeology and historic preservation DAHP is completed., the state shall determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within the site as a preservation area. No ground disturbance is permitted within a preservation area. This designation shall not affect underlying zoning.~~

(4) ~~Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. The preservation area designation shall remain on the appropriate area within a site until~~

~~(a) The human remains or archaeological resources have been completely removed from the site; or~~

~~(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.225 Inadvertent discovery of human remains.

(1) If, during the course of construction, earth movement, clearing, or other site disturbance, human remains are encountered, all work shall cease immediately in an area large enough to protect find.

(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.

(3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.

(4) The property owner shall also promptly notify the DAHP, the director, and the Snohomish County Archaeologist. Under these circumstances, the director may issue a stop work order pursuant to chapter 30.85 SCC.

(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.

30.32D.300 Appeals.

Any building permit issued with conditions imposed pursuant to this chapter may be appealed as a Type 1 decision pursuant to chapter 30.71 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

The Snohomish County Code is current through legislation passed October 3, 2018.

Disclaimer: The Clerk of the Council's Office retains the official version of the Snohomish County Code. The web version is updated as new ordinances become effective, and includes new ordinances through 18-053. New ordinances do not necessarily become effective in chronological or numerical order. Users should contact the Clerk of the Council's Office for information on legislation not yet reflected in the web version.

[County Website: snohomishcountywa.gov](http://snohomishcountywa.gov)

County Telephone: (425) 388-3494

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Proposed Changes 30.32D

Code Section	Proposed Change	Rationale	Comments
<p>30.32D.010 Purpose and Applicability</p>	<p>30.32.D.010 Purpose and applicability. (1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to: (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history; (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history; (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts; (d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and (e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects; and (f) <u>Comply with all federal and state laws related to regulation of archaeological and cultural sites.</u></p>	<p>Language proposed to be added to clarify that one of the purposes of this section is comply with federal and state law for archaeological and cultural sites.</p>	
	<p>(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws <u>on both public and private lands</u>. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; and Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."</p>	<p>HB 2624 (2008) establishes that Native American grave sites are protected on both public and private lands. Proposed change to reflect state regulation. Additionally, HB 2624 changed several sections of the Revised Code of Washington, and SCC 30.32D(2) now includes references to the RCW sections on Human Remains and Abandoned and Historic Cemeteries and Historic Graves.</p>	
	<p>(3) This chapter applies to: (a) Properties eligible for and on the Snohomish county <u>County</u> Register of Historic Places established pursuant to SCC30.32D.020; and (b) Properties listed <u>recorded</u> on the Washington State Archaeological Site Inventory <u>Information System for Architectural and Archaeological Records Data (WISAARD)</u>.</p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation (DAHP)'s database and language changed to clarify that information is recorded not listed in the database.</p>	

Archeology Code Project

<p>Index # 30.32D.200 Archaeological Survey Report</p>	<p>30.32D.200 Archaeology site Survey report. (1) Known archaeological sites are recorded on the Washington State Department of Archaeology and Historic Preservation's Geographic Information System WISAARD and or information from <u>data sharing agreements with DAHP.</u></p> <p>(2) An archaeological site may cover only a portion of a property, parcel, or lot and may be located on <u>extend onto</u> more than one property, parcel or lot.</p> <p>(3) Completion of an archaeology site report <u>a professional archaeological survey or relocation of the property to avoid the known archaeological site shall be required for:</u> (a) <u>Shall be required for</u> any construction, earth movement, clearing or other site <u>land</u> disturbance of a known archaeological site; (b) <u>Shall be required</u> for any development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map; (c) <u>May be required for any development application when information provided by Tribes or County and/or State professional archaeologists indicates that the project location has a high probability for containing archaeological resources.</u></p> <p>(4) An archaeology site report <u>A professional archaeological survey</u> required under subsection (3)(a) of this section shall: (a) Be written by a professional archaeologist as defined in <u>WAC 25.48.020 RCW 27.53.030(11)</u>; (b) Be submitted to the department by the property owner or project proponent; (c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and (d) Include the results of consultation with affected Indian tribe on proposed actions to avoid or mitigate impacts of the proposed project tribes; (e) <u>Meet state and professional standards for cultural resources reporting; and</u> (f) <u>Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.</u></p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation(DAHP)'s database and to reference the data sharing agreement that the county has with DAHP.</p> <p>Proposed change for clarity.</p> <p>Proposed change to introduce a third situation in which archaeological survey reports may be required, based on information provided by County and/or State professional archaeologists that the location has a high probability for containing archaeological resources.</p> <p>Proposed change to update the reference to state law, and to ensure that archaeological survey reports for projects on known archaeological sites meet state and professional standards for cultural resource reporting.</p>	
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Archeology Code Project

<p>Index # - File Name: 4 0032 Attachment - draft changes, Chp 30.32D.pdf</p>	<p>(5) A professional archaeological survey report required under subsection (3)(b) or 3(c) of this section shall: <u>(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);</u> <u>(b) Be submitted to the department by the property owner or project proponent;</u> <u>(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and</u> <u>(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.</u></p>	<p>Proposed change to clarify the requirements for archaeological survey reports required under SCC 30.32D.200(3)(b) and SCC 60.32D.200(3)(c)</p>	
	<p>(5)<u>(6)</u> The department shall provide a copy of the archaeological site archaeology site archaeological survey report to any affected Indian tribes and Washington State Department of Archaeology and Historic Preservation DAHP at the applicant's expense.</p>	<p>Proposed change to update language and to remove text that put the expense of providing copies of the archaeological survey report on the applicant. Submittal of reports is done electronically and does not incur an expense.</p>	
<p>30.32D.210 Project or permit approval for property on state register as an archaeological resource</p>	<p>(1) The county approving authority <u>director</u> shall not issue a permit for any development activity or project approval requiring an archaeology site <u>a professional archaeological survey report</u> pursuant to SCC 30.32D.200 without considering the archaeology site <u>professional archaeological survey report</u> and any comments on the report submitted by an affected Indian tribe <u>and any additional archaeological work and permitting required under Chapter 27.53 RCW.</u></p>	<p>Proposed change to comply with updated language for archaeological survey reports, and to include a reference to the requirements of state law. Language is modified to clarify that the director is the county approving authority</p>	
	<p>(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides <u>documentation of the request for tribal comments to the department.</u></p>	<p>Proposed removal to better align with state law and best tribal coordination practices.</p>	
	<p>(3) (2) Based on the information contained in the archaeology site <u>professional archaeological survey report</u> and any comments submitted by the affected Indian tribe(s) obtained during the <u>consultation review</u> process, the county approving <u>director</u> will condition the permit or approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with <u>federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.</u></p>	<p>Proposed change to update language and to include a reference to the requirements of state law. Language is modified to clarify that the director is the conditioning authority.</p>	

<p>Index #: 30.32D.225 Inadvertent discovery of archaeological resources</p>	<p>30.32D.220 Human remains or inadvertent discovery of archaeological resources found on a site.</p> <p>(1) If, during the course of construction, earth movement, clearing or other site land disturbance, human remains or archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the department director may issue a stop work order pursuant to chapter 30.85 SCC.</p> <p>(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the state office of archaeology and historic preservation <u>Washington State Department of Archaeology and Historic Preservation (DAHP)</u>.</p> <p>(3) After Ground disturbance may not proceed until consultation with any affected Indian tribe and the state office of archaeology and historic preservation <u>DAHP is completed</u>, the state shall determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within a preservation area. This designation shall not affect underlying zoning.</p> <p>(4) <u>Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. The preservation area designation shall remain on the appropriate area within a site until</u></p> <p>(a) The human remains or archaeological resources have been completely removed from the site; or</p> <p>(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource.</p>	<p>Proposed change to replace outdated language and to remove the discovery of human remains from this section to the new 30.32D.225 Inadvertent discovery of skeletal human remains below.</p> <p>Language is modified to clarify that the director has the discretionary ability to issue a stop work order.</p> <p>Proposed change to replace an outdated reference to DAHP.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Language was modified to clarify that the director or designee is a part of the mitigation negotiation.</p>	
<p>30.32D.225 Inadvertent discovery of</p>	<p>30.32D.225 Inadvertent discovery of human remains.</p> <p>(1) If, during the course of construction, earth movement, clearing, or other site disturbance,</p>	<p>This section has been added to conform to state law for the inadvertent discovery of skeletal human remains. HB 2624 (2008)</p>	

<p>Index # - File Name: 1_0032 Attachment - draft changes - Chp 30.32D.pdf Human remains (new section)</p>	<p><u>human remains are encountered, all work shall cease immediately in an area large enough to protect the find.</u></p> <p><u>(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.</u></p> <p><u>3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.</u></p> <p><u>(4) The property owner shall also promptly notify the DAHP and the director. Under these circumstances, the director or designee may issue a stop work order pursuant to chapter 30.85 SCC.</u></p> <p><u>(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.</u></p>	<p>established the procedure for inadvertent discovery.</p> <p>In addition to the requirements of state law. SCC 32D.225(4) includes a requirement to notify the director and the DAHP.</p>	
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Piona, Amber

From: Kaehler, Gretchen
Sent: Monday, January 4, 2021 12:53 PM
To: trgobin@tulaliptribes-nsn.gov
Cc: Richard Young (ryoung@tulaliptribes-nsn.gov); genick@tulaliptribes-nsn.gov; Harper, Lacey
Subject: Re: Snohomish County Code changes to 30.32.D for Cultural
Attachments: Track Changes to 30.32D_12082020.docx; Proposed changes to 30.32D Historic and Archaeological Resources.docx

Dear Chairwoman Gobin,

Snohomish County is proposing code changes to Chapter 30.32D Historic 30.32D Historic and Archaeological Resources in order to comply with new state laws and to clarify language and intent. Snohomish County is also committed to being proactive in regard to early identification of archaeological resources and sites. The code change are proposed to:

- Update code language to align with updated state laws for human skeletal remains and abandoned cemeteries
- Update language to clarify and align with state and professional terminology
- Provide flexibility for the county to be able to require professional archaeological surveys

I have provided two attachments. One shows the changes that were made to the original code, Track Changes to 30.32D, and the other is the proposed code changes and rationale for changes. Please feel free to contact me if you have any questions. We appreciate any comments you may have on the code changes by January 31, 2020.

Respectfully

Gretchen

Gretchen Kaehler
Snohomish County Archaeologist/CLG Coordinator
Cultural Resources Division
425-388-3432 (office)
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ODRAFT

**Chapter 30.32D
HISTORIC AND ARCHAEOLOGICAL RESOURCES**

Sections:

30.32D.010	Purpose and applicability.
30.32D.020	Creation of county register of historic places.
30.32D.030	Designation of property on county register.
30.32D.040	Criteria for designation of property on county register.
30.32D.050	Removal of properties from county register.
30.32D.060	Alteration or demolition of property on county register.
30.32D.070	Procedure for obtaining certificate of appropriateness or waiver.
30.32D.075	Exemptions.
30.32D.080	Review process for request for certificate of appropriateness.
30.32D.090	Review process for waiver of certificate of appropriateness.
30.32D.100	Applicability of zoning requirements.
30.32D.200	Archaeology site <u>Archaeological survey</u> report.
30.32D.210	Project or permit approval for property on state register as an archaeological resource.
30.32D.220	Human remains or archaeological resources found on a site.
30.32D.300	Appeals.

30.32D.010 Purpose and applicability.

(1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to

- (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history;
- (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history;
- (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts;

(d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and

(e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects.

(f) Comply with all federal and state laws related to regulation of archaeological and cultural sites.

(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws on both public and private lands. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; ~~and~~ Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."

(3) This chapter applies to:

(a) Properties eligible for and on the Snohomish ~~county~~ County Register of Historic Places established pursuant to SCC 30.32D.020; and

(b) Properties ~~listed-recorded~~ on the Washington ~~State Archaeological Site Inventory Information System for Architectural and Archaeological Records Data (WISAARD)~~.

(4) Regulations concerning the Snohomish County Historic Preservation Commission are in chapter 2.96 SCC; regulations concerning the state tax incentive program for qualifying historic properties are located in chapter 4.31 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.020 Creation of county register of historic places.

There is hereby established a Snohomish county register of historic places that identifies historic buildings, sites, structures, objects, and districts within the county. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.030 Designation of property on county register.

- (1) Listing on the county register is an honorary designation denoting significant association with the historic, architectural, archaeological, engineering, or cultural heritage of the community. Property is listed individually or as properties that as a group contribute to the historical integrity of an historic district.
- (2) The historic preservation commission, as established in Title 2 SCC, or any person may nominate a building, site, structure, object, or district for placement on the county register by submitting a letter to the historic preservation commission.
- (3) The county shall make a written recommendation to the historic preservation commission regarding the nomination and notify the property owner of the nomination, if necessary. If the property owner consents to the nomination, the department shall schedule a public meeting before the historic preservation commission to consider the nomination. The county shall publish notice of the public meeting in accordance with SCC 30.70.045 and provide mailed notice to the property owner, occupant, and nominator.
- (4) The historic preservation commission shall consider the nomination at the public meeting. If the commission finds that the nominated property meets the criteria for designation established in SCC 30.32D.040, the commission shall designate the property on the county register. If the property is so designated by the commission, the department shall indicate the designation on county zoning maps by placing "HR" on the property.
- (5) The county shall provide notice of the historic preservation commission's decision as required in SCC 30.32D.030. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 12-018, May 2, 2012, Eff date May 21, 2012).

30.32D.040 Criteria for designation of property on county register.

- (1) The historic preservation commission may designate a property or properties on the county register only if the building, site, structure, object, or district is at least fifty years old or, in the event that the property is of exceptional historical significance as determined by the commission, at least forty years old.
- (2) The commission will also consider whether the nominated property or properties:

- (a) Possess significant and important association with the history, architecture, archaeology, engineering, or cultural heritage of the county as documented in texts used as standard references by professionals in these disciplines;
- (b) Possess one or more of the following:
 - (i) integrity of location, meaning the building, structure or object has remained on the same site for fifty years or more;
 - (ii) integrity of design, meaning the design of the building, structure, object, or the structures contributing to a district have remained unchanged for fifty years or more;
 - (iii) integrity of materials, meaning the materials used in the building, object or structure are either original or have been reproduced to replicate, as closely as possible, the original materials; or
 - (iv) integrity of workmanship, meaning the building must exhibit original workmanship, or if repairs or reconstruction of a building, structure, site or object have been or need to be carried out, the methods used are as similar to the original construction methods as possible. If modern construction methods were used, the resulting repair or reconstruction must replicate the original workmanship as closely as possible;
- (c) Meet at least one of the following criteria:
 - (i) the property is associated with events that made an important contribution to national, state, or local history;
 - (ii) the property embodies architectural characteristics of a distinctive and defined type, period, style, or method of design or construction, as documented in professional architectural and historic preservation publications, or represents a significant and distinguishable entity whose components may lack individual distinction;
 - (iii) the property is an outstanding work of a recognized designer, builder, or architect whose work has been documented in professional publications as having made a substantial contribution to the artistic and aesthetic values of the community;
 - (iv) the property exemplifies or reflects elements of Snohomish county's cultural, social, economic, political, aesthetic, engineering or architectural history;
 - (v) the property is associated with the life of a person of documented importance in national, state, or local history;

- (vi) the property yields or is likely to yield important archaeological information related to history or prehistory;
- (vii) the property contains a building or structure removed from its original location but which has significant and documented architectural value, or which is the only surviving building or structure associated with an historic person or event;
- (viii) the property is a birthplace or grave of an historical figure of documented importance which is the only surviving building, structure or site associated with that person;
- (ix) the property is a cemetery which derives its primary significance from age, design features, or association with historic events or cultural patterns;
- (x) the property contains a building that has been reconstructed in an historically accurate manner on the original site; or
- (xi) the property is an example of folk architecture and design that is creative and unique, but which does not fit into formal architectural or historical categories. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.050 Removal of properties from county register.

- (1) Initiation of removal of a property from the local register may occur in one of the following ways:
 - (a) A property owner may request review of a property for removal from the local register by submitting a written request to the historic preservation commission; or
 - (b) The historic preservation commission may initiate removal.
- (2) The historic preservation commission will schedule a public meeting for consideration of removal of any property from the local register. If removal is requested by the property owner, the commission must schedule the public meeting within 30 days of receipt of the request for removal. The department shall provide notice of the public meeting in accordance with SCC 30.32D.030(3).
- (3) If the property owner has requested removal, the property owner must notify the historic preservation commission within one week of the conclusion of the public meeting that
 - (a) The property will be removed from the local register; or

(b) The property owner rescinds the removal request.

Failure by the property owner to so notify the historic preservation commission will result in the property remaining on the register.

(4) The historic preservation commission may remove property from the local register without the owner's consent if alterations to the property result in loss of historical integrity. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.060 Alteration or demolition of property on county register.

(1) An owner of property listed on the local register who proposes any physical alteration or rehabilitation of the exterior of a register property, or of interior features that are listed as contributing to the significance of the property, excluding ordinary repair, maintenance and emergency repairs, must request and receive a certificate of appropriateness from the historic preservation commission for the proposed work. If a building permit is required pursuant to subtitle 30.5 SCC for the work, issuance of a certificate of appropriateness will be a precondition to issuance of a building permit.

(2) An owner who proposes to partially or completely demolish a register property must request and receive from the historic preservation commission a waiver of a certificate of appropriateness as a precondition to issuance of a permit for demolition. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.070 Procedure for obtaining certificate of appropriateness or waiver.

(1) The applicant for a permit to perform any work described in SCC 30.32D.060 shall submit a copy of the building permit or demolition permit application to the historic preservation commission along with a request to be considered for a certificate of appropriateness or waiver.

(2) The commission shall consider a request for a certificate of appropriateness or waiver at a public meeting. The department shall publish notice of the meeting as required in SCC 30.70.045 and provide mailed notice to the applicant and the property owner.

(3) The department shall not issue a building permit or a demolition permit for a property listed on the local register until a certificate of appropriateness or waiver is issued. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.075 Exemptions.

Ordinary repair and maintenance and emergency repair do not require a certificate of appropriateness or review by the historic preservation commission. For purposes of this chapter, ordinary repair and maintenance means work for which no county permit is required by law, and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, the real property or structure and appurtenances thereto, and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage. For purposes of this chapter, emergency repair means work necessary to prevent destruction or disrepair to real property immediately threatened or damaged by fire, flood, earthquake, vandalism or other disaster. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.080 Review process for request for certificate of appropriateness.

(1) An applicant must include within a request for a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule. Information required by the commission will include information responding to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, referred to in WAC 254-20-100 and used by the Washington State Advisory Council on Historic Preservation and by the commission. A copy of the standards is available at the department front counter.

(2) When responding to a request for a certificate of appropriateness, the historic preservation commission shall review all features of the property that are proposed for alteration and that are listed as contributing to the property's designation on the local register nomination form.

(3) The commission shall meet with the applicant and review the proposed work according to the design review criteria established by administrative rule.

(4) The commission shall complete its review and make its recommendation within forty-five days of the date of receipt of the application. If necessary, the commission may extend the review period for up to an additional twenty days. If no recommendation has been made within sixty-five days, the commission is considered to have recommended approval.

- (5) The commission will provide the applicant with its written recommendation, stating the findings of fact and conclusions leading to the recommendation. Any conditions agreed to by the applicant in the review process and accepted by the commission shall become conditions of approval for any relevant permit granted and be incorporated in the commission's decision to grant a certificate of appropriateness.
- (6) If the applicant agrees to the commission's recommendation, the commission shall issue a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (7) If the applicant does not agree to the commission's recommendation and any alteration to the property is determined to be inappropriate by the commission, the property may be removed by the commission from the local register. Once the property is removed from the local register, the requirement of SCC 30.32D.060(1) shall no longer apply. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.090 Review process for waiver of certificate of appropriateness.

- (1) An applicant must include within a request for a waiver of a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule.
- (2) The commission shall review the request for a waiver in accordance with the commission's administrative rules. The commission shall consider whether there is any feasible alternative to the demolition proposed.
- (3) Following review of the request, the commission shall issue a waiver of a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (4) As a part of the issuance of the waiver, the commission may recommend to the building official that the applicant mitigate the demolition of register property. The commission shall support any recommended requirement of mitigation with findings of fact and conclusions. Mitigation may include, but is not limited to, an identification plaque, use of an architectural element of an historic building in new construction, and/or buffering or protection of remaining elements of an historic resource. The building official shall adopt a commission recommendation for mitigation as a condition of approval of any permit granted for partial or complete demolition of the property.
- (5) After the property is partially or completely demolished, the commission shall remove the property from the local register. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.100 Applicability of zoning requirements.

Properties designated on the local register shall be subject to the provisions set forth in this title. Nothing contained in this chapter shall be construed as repealing, modifying, or waiving any other provision of this title. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.200 ~~Archaeology site~~ Archaeological Survey report.

- (1) Known archaeological sites are recorded on ~~the Washington State Department of Archaeology and Historic Preservation's Geographic Information System WISAARD and or information from datasharing agreements with DAHP.~~
- (2) An archaeological site may cover only a portion of a property, parcel, or lot and may ~~be located on~~ extend onto more than one property, parcel, or lot.
- (3) Completion of ~~an archaeology site report~~ a professional archaeology survey ~~or relocation of the project to avoid the known archaeological site shall be required for:~~
 - (a) ~~Shall be required for~~ Anyany construction, earth movement, clearing, or other ~~site~~ land disturbance of a known archaeological site;
 - (b) ~~Shall be required for~~ Anyany development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map.
 - (c) ~~May be required for any development application when~~ information ~~information provided by Tribes or County and/or state professional archaeologists indicates that the project location has a high probability for containing archaeological resources.~~
- (4) ~~An archaeology site report~~ A professional archaeological survey required under subsection (3)(a) of this section shall:
 - (a) Be written by a professional archaeologist as defined in ~~WAC 25-48-020 RCW 27.53.030(11);~~
 - (b) Be submitted to the department by the property owner or project proponent;
 - (c) Include the location, ~~condition,~~ and extent of the archaeological resources located on site ~~and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and~~

(d) Include the results of consultation with affected Indian ~~tribes on proposed actions to avoid or mitigate impacts of the proposed project.~~ tribes;

(e) Meet state and professional standards for cultural resources reporting; and

(f) Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.

(5) A professional archaeological survey report required under subsection (3)(b) or (3)(c) of this section shall:

(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);

(b) Be submitted to the department by the property owner or project proponent;

(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and

(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.

~~(5)(6) The department shall provide a copy of the archaeological site archaeological survey report to any affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, DAHP, at the applicant's expense.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007; Amended by Amended Ord. 15-027, May 6, 2015, Eff date May 24, 2015).

30.32D.210 Project or permit approval for property on state register as an archaeological resource.

(1) The ~~county approving authority~~ director shall not issue a permit for any development activity or project approval requiring ~~an archaeology site professional archeological survey~~ report pursuant to SCC 30.32D.200 without considering the ~~archaeology site professional archeological survey~~ report and any comments on the report submitted by an affected Indian tribe and any additional archaeological work and permitting required under Chapter 27.53 RCW.

~~(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides documentation of the request for tribal comments to the department.~~

~~(2)(3)~~ Based on the information contained in ~~the archaeology site~~ professional archeological survey report and any comments submitted by the affected Indian tribe(s) obtained during the ~~consultation-review~~ process, the ~~county approving authority~~ director will condition the permit or project approval ~~in a manner that will avoid or minimize impacts to the archaeological resource consistent with federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.220 ~~Human remains or~~ Inadvertent discovery of archaeological resources ~~found on a site.~~

(1) If, during the course of construction, earth movement, clearing, or other ~~site land~~ disturbance, ~~human remains or~~ archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the ~~department director~~ may issue a stop work order pursuant to chapter 30.85 SCC.

(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the ~~state office of archaeology and historic preservation~~ Washington State Department of Archaeology and Historic Preservation (DAHP).

(3) ~~After~~ Ground disturbance may not proceed until consultation with any affected Indian tribe and the ~~state office of archaeology and historic preservation~~ DAHP is completed., ~~the state shall determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within the site as a preservation area. No ground disturbance is permitted within a preservation area. This designation shall not affect underlying zoning.~~

(4) Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. ~~The preservation area designation shall remain on the appropriate area within a site until~~

~~(a) The human remains or archaeological resources have been completely removed from the site; or~~

~~(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.225 Inadvertent discovery of human remains.

(1) If, during the course of construction, earth movement, clearing, or other site disturbance, human remains are encountered, all work shall cease immediately in an area large enough to protect find.

(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.

(3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.

(4) The property owner shall also promptly notify the DAHP, the director, and the Snohomish County Archaeologist. Under these circumstances, the director may issue a stop work order pursuant to chapter 30.85 SCC.

(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.

30.32D.300 Appeals.

Any building permit issued with conditions imposed pursuant to this chapter may be appealed as a Type 1 decision pursuant to chapter 30.71 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

The Snohomish County Code is current through legislation passed October 3, 2018.

Disclaimer: The Clerk of the Council's Office retains the official version of the Snohomish County Code. The web version is updated as new ordinances become effective, and includes new ordinances through 18-053. New ordinances do not necessarily become effective in chronological or numerical order. Users should contact the Clerk of the Council's Office for information on legislation not yet reflected in the web version.

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Proposed Changes 30.32D

Code Section	Proposed Change	Rationale	Comments
30.32D.010 Purpose and Applicability	<p>30.32.D.010 Purpose and applicability.</p> <p>(1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to:</p> <p>(a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history;</p> <p>(b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history;</p> <p>(c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts;</p> <p>(d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and</p> <p>(e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects; and</p> <p><u>(f) Comply with all federal and state laws related to regulation of archaeological and cultural sites.</u></p>	<p>Language proposed to be added to clarify that one of the purposes of this section is comply with federal and state law for archaeological and cultural sites.</p>	
	<p>(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws <u>on both public and private lands</u>. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; and Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."</p>	<p>HB 2624 (2008) establishes that Native American grave sites are protected on both public and private lands. Proposed change to reflect state regulation. Additionally, HB 2624 changed several sections of the Revised Code of Washington, and SCC 30.32D(2) now includes references to the RCW sections on Human Remains and Abandoned and Historic Cemeteries and Historic Graves.</p>	
	<p>(3) This chapter applies to:</p> <p>(a) Properties eligible for and on the Snohomish county <u>County</u> Register of Historic Places established pursuant to SCC30.32D.020; and</p> <p>(b) Properties listed <u>recorded</u> on the Washington State Archaeological Site Inventory <u>Information System for Architectural and Archaeological Records Data (WISAARD)</u>.</p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation (DAHP)'s database and language changed to clarify that information is recorded not listed in the database.</p>	

Archeology Code Project

<p>Index # 30.32D.200 File Name: 30.32D.200 Archaeology site Survey report. Archaeological Survey Report</p>	<p>(1) Known archaeological sites are recorded on the Washington State Department of Archaeology and Historic Preservation's Geographic Information System WISAARD and or information from data sharing agreements with DAHP.</p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation(DAHP)'s database and to reference the data sharing agreement that the county has with DAHP.</p>	
	<p>(2) An archaeological site may cover only a portion of a property, parcel, or lot and may be located on extend onto more than one property, parcel or lot.</p>	<p>Proposed change for clarity.</p>	
	<p>(3) Completion of an archaeology site report a professional archaeological survey or relocation of the property to avoid the known archaeological site shall be required for: (a) Shall be required for any construction, earth movement, clearing or other site <u>land</u> disturbance of a known archaeological site; (b) Shall be required for any development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map; (c) May be required for any development application when information provided by Tribes or County and/or State professional archaeologists indicates that the project location has a high probability for containing archaeological resources.</p>	<p>Proposed change to introduce a third situation in which archaeological survey reports may be required, based on information provided by County and/or State professional archaeologists that the location has a high probability for containing archaeological resources.</p>	
	<p>(4) An archaeology site report A professional archaeological survey required under subsection (3)(a) of this section shall: (a) Be written by a professional archaeologist as defined in <u>WAC 25.48.020 RCW 27.53.030(11)</u>; (b) Be submitted to the department by the property owner or project proponent; (c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and (d) Include the results of consultation with affected Indian tribe on proposed actions to avoid or mitigate impacts of the proposed project tribes; (e) <u>Meet state and professional standards for cultural resources reporting; and</u> (f) <u>Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.</u></p>	<p>Proposed change to update the reference to state law, and to ensure that archaeological survey reports for projects on known archaeological sites meet state and professional standards for cultural resource reporting.</p>	

Archeology Code Project

<p>Index # - File Name: 4 0034 Attachment - draft changes, Chp 30.32D.pdf</p>	<p>(5) A professional archaeological survey report required under subsection (3)(b) or 3(c) of this section shall: <u>(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);</u> <u>(b) Be submitted to the department by the property owner or project proponent;</u> <u>(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and</u> <u>(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.</u></p>	<p>Proposed change to clarify the requirements for archaeological survey reports required under SCC 30.32D.200(3)(b) and SCC 60.32D.200(3)(c)</p>	
	<p>(5)<u>(6)</u> The department shall provide a copy of the archaeological site archaeology site archaeological survey report to any affected Indian tribes and Washington State Department of Archaeology and Historic Preservation DAHP at the applicant's expense.</p>	<p>Proposed change to update language and to remove text that put the expense of providing copies of the archaeological survey report on the applicant. Submittal of reports is done electronically and does not incur an expense.</p>	
<p>30.32D.210 Project or permit approval for property on state register as an archaeological resource</p>	<p>(1) The county approving authority <u>director</u> shall not issue a permit for any development activity or project approval requiring an archaeology site <u>a professional archaeological survey report</u> pursuant to SCC 30.32D.200 without considering the archaeology site <u>professional archaeological survey report</u> and any comments on the report submitted by an affected Indian tribe <u>and any additional archaeological work and permitting required under Chapter 27.53 RCW.</u></p>	<p>Proposed change to comply with updated language for archaeological survey reports, and to include a reference to the requirements of state law. Language is modified to clarify that the director is the county approving authority</p>	
	<p>(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides <u>documentation of the request for tribal comments to the department.</u></p>	<p>Proposed removal to better align with state law and best tribal coordination practices.</p>	
	<p>(3) (2) Based on the information contained in the archaeology site <u>professional archaeological survey report</u> and any comments submitted by the affected Indian tribe(s) obtained during the <u>consultation review</u> process, the county approving <u>director</u> will condition the permit or approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with <u>federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.</u></p>	<p>Proposed change to update language and to include a reference to the requirements of state law. Language is modified to clarify that the director is the conditioning authority.</p>	

<p>Index #: 30.32D.220 Inadvertent discovery of archaeological resources</p>	<p>30.32D.220 Human remains or inadvertent discovery of archaeological resources found on a site.</p> <p>(1) If, during the course of construction, earth movement, clearing or other site land disturbance, human remains or archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the department director may issue a stop work order pursuant to chapter 30.85 SCC.</p> <p>(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the state office of archaeology and historic preservation <u>Washington State Department of Archaeology and Historic Preservation (DAHP).</u></p> <p>(3) After <u>Ground disturbance may not proceed until</u> consultation with any affected Indian tribe and the state office of archaeology and historic preservation <u>DAHP is completed.</u>, the state shall determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within a preservation area. This designation shall not affect underlying zoning.</p> <p>(4) <u>Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. The preservation area designation shall remain on the appropriate area within a site until</u></p> <p>(a) The human remains or archaeological resources have been completely removed from the site; or</p> <p>(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource.</p>	<p>Proposed change to replace outdated language and to remove the discovery of human remains from this section to the new 30.32D.225 Inadvertent discovery of skeletal human remains below.</p> <p>Language is modified to clarify that the director has the discretionary ability to issue a stop work order.</p> <p>Proposed change to replace an outdated reference to DAHP.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Language was modified to clarify that the director or designee is a part of the mitigation negotiation.</p>	
<p>30.32D.225 Inadvertent discovery of</p>	<p>30.32D.225 Inadvertent discovery of human remains.</p> <p>(1) <u>If, during the course of construction, earth movement, clearing, or other site disturbance,</u></p>	<p>This section has been added to conform to state law for the inadvertent discovery of skeletal human remains. HB 2624 (2008)</p>	

<p>Index # - File Name: 1_0034 Attachment - draft changes Chap 30.32D.pdf Human remains (new section)</p>	<p><u>human remains are encountered, all work shall cease immediately in an area large enough to protect the find.</u></p> <p><u>(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.</u></p> <p><u>3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.</u></p> <p><u>(4) The property owner shall also promptly notify the DAHP and the director. Under these circumstances, the director or designee may issue a stop work order pursuant to chapter 30.85 SCC.</u></p> <p><u>(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.</u></p>	<p>established the procedure for inadvertent discovery.</p> <p>In addition to the requirements of state law. SCC 32D.225(4) includes a requirement to notify the director and the DAHP.</p>	
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Piona, Amber

From: Kaehler, Gretchen
Sent: Monday, January 4, 2021 1:35 PM
To: Jenniferw@upperskagit.com
Cc: sschuyler@upperskagit.com
Subject: FW: Snohomish County Code changes to 30.32.D for Historic and Archaeological Resources
Attachments: Track Changes to 30.32D_12082020.docx; Proposed changes to 30.32D Historic and Archaeological Resources.docx

Dear Chairwoman Washington,

Snohomish County is proposing code changes to Chapter 30.32D Historic 30.32D Historic and Archaeological Resources in order to comply with new state laws and to clarify language and intent. Snohomish County is also committed to being proactive in regard to early identification of archaeological resources and sites. The code change are proposed to:

- Update code language to align with updated state laws for human skeletal remains and abandoned cemeteries
- Update language to clarify and align with state and professional terminology
- Provide flexibility for the county to be able to require professional archaeological surveys

I have provided two attachments. One shows the changes that were made to the original code, Track Changes to 30.32D, and the other is the proposed code changes and rationale for changes. Please feel free to contact me if you have any questions. We appreciate any comments you may have on the code changes by January 31, 2021.

Respectfully

Gretchen

Gretchen Kaehler
Snohomish County Archaeologist/CLG Coordinator
Cultural Resources Division
425-388-3432 (office)
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ODRAFT

**Chapter 30.32D
HISTORIC AND ARCHAEOLOGICAL RESOURCES**

Sections:

30.32D.010	Purpose and applicability.
30.32D.020	Creation of county register of historic places.
30.32D.030	Designation of property on county register.
30.32D.040	Criteria for designation of property on county register.
30.32D.050	Removal of properties from county register.
30.32D.060	Alteration or demolition of property on county register.
30.32D.070	Procedure for obtaining certificate of appropriateness or waiver.
30.32D.075	Exemptions.
30.32D.080	Review process for request for certificate of appropriateness.
30.32D.090	Review process for waiver of certificate of appropriateness.
30.32D.100	Applicability of zoning requirements.
30.32D.200	Archaeology site <u>Archaeological survey</u> report.
30.32D.210	Project or permit approval for property on state register as an archaeological resource.
30.32D.220	Human remains or archaeological resources found on a site.
30.32D.300	Appeals.

30.32D.010 Purpose and applicability.

(1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to

- (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history;
- (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history;
- (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts;

(d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and

(e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects.

(f) Comply with all federal and state laws related to regulation of archaeological and cultural sites.

(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws on both public and private lands. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; ~~and~~ Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."

(3) This chapter applies to:

(a) Properties eligible for and on the Snohomish ~~county~~ County Register of Historic Places established pursuant to SCC 30.32D.020; and

(b) Properties ~~listed-recorded~~ on the Washington ~~State Archaeological Site Inventory Information System for Architectural and Archaeological Records Data (WISAARD)~~.

(4) Regulations concerning the Snohomish County Historic Preservation Commission are in chapter 2.96 SCC; regulations concerning the state tax incentive program for qualifying historic properties are located in chapter 4.31 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.020 Creation of county register of historic places.

There is hereby established a Snohomish county register of historic places that identifies historic buildings, sites, structures, objects, and districts within the county. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.030 Designation of property on county register.

- (1) Listing on the county register is an honorary designation denoting significant association with the historic, architectural, archaeological, engineering, or cultural heritage of the community. Property is listed individually or as properties that as a group contribute to the historical integrity of an historic district.
- (2) The historic preservation commission, as established in Title 2 SCC, or any person may nominate a building, site, structure, object, or district for placement on the county register by submitting a letter to the historic preservation commission.
- (3) The county shall make a written recommendation to the historic preservation commission regarding the nomination and notify the property owner of the nomination, if necessary. If the property owner consents to the nomination, the department shall schedule a public meeting before the historic preservation commission to consider the nomination. The county shall publish notice of the public meeting in accordance with SCC 30.70.045 and provide mailed notice to the property owner, occupant, and nominator.
- (4) The historic preservation commission shall consider the nomination at the public meeting. If the commission finds that the nominated property meets the criteria for designation established in SCC 30.32D.040, the commission shall designate the property on the county register. If the property is so designated by the commission, the department shall indicate the designation on county zoning maps by placing "HR" on the property.
- (5) The county shall provide notice of the historic preservation commission's decision as required in SCC 30.32D.030. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 12-018, May 2, 2012, Eff date May 21, 2012).

30.32D.040 Criteria for designation of property on county register.

- (1) The historic preservation commission may designate a property or properties on the county register only if the building, site, structure, object, or district is at least fifty years old or, in the event that the property is of exceptional historical significance as determined by the commission, at least forty years old.
- (2) The commission will also consider whether the nominated property or properties:

- (a) Possess significant and important association with the history, architecture, archaeology, engineering, or cultural heritage of the county as documented in texts used as standard references by professionals in these disciplines;
- (b) Possess one or more of the following:
 - (i) integrity of location, meaning the building, structure or object has remained on the same site for fifty years or more;
 - (ii) integrity of design, meaning the design of the building, structure, object, or the structures contributing to a district have remained unchanged for fifty years or more;
 - (iii) integrity of materials, meaning the materials used in the building, object or structure are either original or have been reproduced to replicate, as closely as possible, the original materials; or
 - (iv) integrity of workmanship, meaning the building must exhibit original workmanship, or if repairs or reconstruction of a building, structure, site or object have been or need to be carried out, the methods used are as similar to the original construction methods as possible. If modern construction methods were used, the resulting repair or reconstruction must replicate the original workmanship as closely as possible;
- (c) Meet at least one of the following criteria:
 - (i) the property is associated with events that made an important contribution to national, state, or local history;
 - (ii) the property embodies architectural characteristics of a distinctive and defined type, period, style, or method of design or construction, as documented in professional architectural and historic preservation publications, or represents a significant and distinguishable entity whose components may lack individual distinction;
 - (iii) the property is an outstanding work of a recognized designer, builder, or architect whose work has been documented in professional publications as having made a substantial contribution to the artistic and aesthetic values of the community;
 - (iv) the property exemplifies or reflects elements of Snohomish county's cultural, social, economic, political, aesthetic, engineering or architectural history;
 - (v) the property is associated with the life of a person of documented importance in national, state, or local history;

- (vi) the property yields or is likely to yield important archaeological information related to history or prehistory;
- (vii) the property contains a building or structure removed from its original location but which has significant and documented architectural value, or which is the only surviving building or structure associated with an historic person or event;
- (viii) the property is a birthplace or grave of an historical figure of documented importance which is the only surviving building, structure or site associated with that person;
- (ix) the property is a cemetery which derives its primary significance from age, design features, or association with historic events or cultural patterns;
- (x) the property contains a building that has been reconstructed in an historically accurate manner on the original site; or
- (xi) the property is an example of folk architecture and design that is creative and unique, but which does not fit into formal architectural or historical categories. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.050 Removal of properties from county register.

- (1) Initiation of removal of a property from the local register may occur in one of the following ways:
 - (a) A property owner may request review of a property for removal from the local register by submitting a written request to the historic preservation commission; or
 - (b) The historic preservation commission may initiate removal.
- (2) The historic preservation commission will schedule a public meeting for consideration of removal of any property from the local register. If removal is requested by the property owner, the commission must schedule the public meeting within 30 days of receipt of the request for removal. The department shall provide notice of the public meeting in accordance with SCC 30.32D.030(3).
- (3) If the property owner has requested removal, the property owner must notify the historic preservation commission within one week of the conclusion of the public meeting that
 - (a) The property will be removed from the local register; or

(b) The property owner rescinds the removal request.

Failure by the property owner to so notify the historic preservation commission will result in the property remaining on the register.

(4) The historic preservation commission may remove property from the local register without the owner's consent if alterations to the property result in loss of historical integrity. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.060 Alteration or demolition of property on county register.

(1) An owner of property listed on the local register who proposes any physical alteration or rehabilitation of the exterior of a register property, or of interior features that are listed as contributing to the significance of the property, excluding ordinary repair, maintenance and emergency repairs, must request and receive a certificate of appropriateness from the historic preservation commission for the proposed work. If a building permit is required pursuant to subtitle 30.5 SCC for the work, issuance of a certificate of appropriateness will be a precondition to issuance of a building permit.

(2) An owner who proposes to partially or completely demolish a register property must request and receive from the historic preservation commission a waiver of a certificate of appropriateness as a precondition to issuance of a permit for demolition. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.070 Procedure for obtaining certificate of appropriateness or waiver.

(1) The applicant for a permit to perform any work described in SCC 30.32D.060 shall submit a copy of the building permit or demolition permit application to the historic preservation commission along with a request to be considered for a certificate of appropriateness or waiver.

(2) The commission shall consider a request for a certificate of appropriateness or waiver at a public meeting. The department shall publish notice of the meeting as required in SCC 30.70.045 and provide mailed notice to the applicant and the property owner.

(3) The department shall not issue a building permit or a demolition permit for a property listed on the local register until a certificate of appropriateness or waiver is issued. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.075 Exemptions.

Ordinary repair and maintenance and emergency repair do not require a certificate of appropriateness or review by the historic preservation commission. For purposes of this chapter, ordinary repair and maintenance means work for which no county permit is required by law, and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, the real property or structure and appurtenances thereto, and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage. For purposes of this chapter, emergency repair means work necessary to prevent destruction or disrepair to real property immediately threatened or damaged by fire, flood, earthquake, vandalism or other disaster. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.080 Review process for request for certificate of appropriateness.

(1) An applicant must include within a request for a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule. Information required by the commission will include information responding to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, referred to in WAC 254-20-100 and used by the Washington State Advisory Council on Historic Preservation and by the commission. A copy of the standards is available at the department front counter.

(2) When responding to a request for a certificate of appropriateness, the historic preservation commission shall review all features of the property that are proposed for alteration and that are listed as contributing to the property's designation on the local register nomination form.

(3) The commission shall meet with the applicant and review the proposed work according to the design review criteria established by administrative rule.

(4) The commission shall complete its review and make its recommendation within forty-five days of the date of receipt of the application. If necessary, the commission may extend the review period for up to an additional twenty days. If no recommendation has been made within sixty-five days, the commission is considered to have recommended approval.

- (5) The commission will provide the applicant with its written recommendation, stating the findings of fact and conclusions leading to the recommendation. Any conditions agreed to by the applicant in the review process and accepted by the commission shall become conditions of approval for any relevant permit granted and be incorporated in the commission's decision to grant a certificate of appropriateness.
- (6) If the applicant agrees to the commission's recommendation, the commission shall issue a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (7) If the applicant does not agree to the commission's recommendation and any alteration to the property is determined to be inappropriate by the commission, the property may be removed by the commission from the local register. Once the property is removed from the local register, the requirement of SCC 30.32D.060(1) shall no longer apply. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.090 Review process for waiver of certificate of appropriateness.

- (1) An applicant must include within a request for a waiver of a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule.
- (2) The commission shall review the request for a waiver in accordance with the commission's administrative rules. The commission shall consider whether there is any feasible alternative to the demolition proposed.
- (3) Following review of the request, the commission shall issue a waiver of a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (4) As a part of the issuance of the waiver, the commission may recommend to the building official that the applicant mitigate the demolition of register property. The commission shall support any recommended requirement of mitigation with findings of fact and conclusions. Mitigation may include, but is not limited to, an identification plaque, use of an architectural element of an historic building in new construction, and/or buffering or protection of remaining elements of an historic resource. The building official shall adopt a commission recommendation for mitigation as a condition of approval of any permit granted for partial or complete demolition of the property.
- (5) After the property is partially or completely demolished, the commission shall remove the property from the local register. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.100 Applicability of zoning requirements.

Properties designated on the local register shall be subject to the provisions set forth in this title. Nothing contained in this chapter shall be construed as repealing, modifying, or waiving any other provision of this title. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.200 ~~Archaeology site~~ Archaeological Survey report.

- (1) Known archaeological sites are recorded on ~~the Washington State Department of Archaeology and Historic Preservation's Geographic Information System WISAARD and or information from datasharing agreements with DAHP.~~
- (2) An archaeological site may cover only a portion of a property, parcel, or lot and may ~~be located on~~ extend onto more than one property, parcel, or lot.
- (3) Completion of ~~an archaeology site report~~ a professional archaeology survey ~~or relocation of the project to avoid the known archaeological site shall be required for:~~
 - (a) ~~Shall be required for~~ Anyany construction, earth movement, clearing, or other ~~site~~ land disturbance of a known archaeological site;
 - (b) ~~Shall be required for~~ Anyany development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map.
 - (c) ~~May be required for any development application when~~ information ~~information provided by Tribes or County and/or state professional archaeologists indicates that the project location has a high probability for containing archaeological resources.~~
- (4) ~~An archaeology site report~~ A professional archaeological survey required under subsection (3)(a) of this section shall:
 - (a) Be written by a professional archaeologist as defined in ~~WAC 25-48-020 RCW 27.53.030(11);~~
 - (b) Be submitted to the department by the property owner or project proponent;
 - (c) Include the location, ~~condition,~~ and extent of the archaeological resources located on site ~~and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and~~

(d) Include the results of consultation with affected Indian ~~tribes on proposed actions to avoid or mitigate impacts of the proposed project.~~ tribes;

(e) Meet state and professional standards for cultural resources reporting; and

(f) Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.

(5) A professional archaeological survey report required under subsection (3)(b) or (3)(c) of this section shall:

(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);

(b) Be submitted to the department by the property owner or project proponent;

(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and

(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.

~~(5)(6) The department shall provide a copy of the archaeological site archaeological survey report to any affected Indian tribes and the Washington State Department of Archaeology and Historic Preservation, DAHP, at the applicant's expense.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007; Amended by Amended Ord. 15-027, May 6, 2015, Eff date May 24, 2015).

30.32D.210 Project or permit approval for property on state register as an archaeological resource.

(1) The ~~county approving authority~~ director shall not issue a permit for any development activity or project approval requiring ~~an archaeology site professional archeological survey~~ report pursuant to SCC 30.32D.200 without considering the ~~archaeology site professional archeological survey~~ report and any comments on the report submitted by an affected Indian tribe and any additional archaeological work and permitting required under Chapter 27.53 RCW.

~~(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides documentation of the request for tribal comments to the department.~~

~~(2)(3) Based on the information contained in the archaeology site professional archeological survey report and any comments submitted by the affected Indian tribe(s) obtained during the consultation review process, the county approving authority director will condition the permit or project approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.220 ~~Human remains or Inadvertent discovery of~~ archaeological resources ~~found on a site.~~

(1) If, during the course of construction, earth movement, clearing, or other ~~site land~~ disturbance, ~~human remains or~~ archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the ~~department director~~ may issue a stop work order pursuant to chapter 30.85 SCC.

(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the ~~state office of archaeology and historic preservation~~ Washington State Department of Archaeology and Historic Preservation (DAHP).

(3) ~~After Ground disturbance may not proceed until~~ consultation with any affected Indian tribe and the ~~state office of archaeology and historic preservation DAHP is completed,~~ the state shall ~~determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within the site as a preservation area. No ground disturbance is permitted within a preservation area. This designation shall not affect underlying zoning.~~

(4) ~~Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. The preservation area designation shall remain on the appropriate area within a site until~~

~~(a) The human remains or archaeological resources have been completely removed from the site; or~~

~~(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.225 Inadvertent discovery of human remains.

(1) If, during the course of construction, earth movement, clearing, or other site disturbance, human remains are encountered, all work shall cease immediately in an area large enough to protect find.

(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.

(3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.

(4) The property owner shall also promptly notify the DAHP, the director, and the Snohomish County Archaeologist. Under these circumstances, the director may issue a stop work order pursuant to chapter 30.85 SCC.

(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.

30.32D.300 Appeals.

Any building permit issued with conditions imposed pursuant to this chapter may be appealed as a Type 1 decision pursuant to chapter 30.71 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

The Snohomish County Code is current through legislation passed October 3, 2018.

Disclaimer: The Clerk of the Council's Office retains the official version of the Snohomish County Code. The web version is updated as new ordinances become effective, and includes new ordinances through 18-053. New ordinances do not necessarily become effective in chronological or numerical order. Users should contact the Clerk of the Council's Office for information on legislation not yet reflected in the web version.

[County Website: snohomishcountywa.gov](http://snohomishcountywa.gov)

County Telephone: (425) 388-3494

[Code Publishing Company](#)

Proposed Changes 30.32D

Code Section	Proposed Change	Rationale	Comments
<p>30.32D.010 Purpose and Applicability</p>	<p>30.32.D.010 Purpose and applicability. (1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to: (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history; (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history; (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts; (d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and (e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects; and (f) <u>Comply with all federal and state laws related to regulation of archaeological and cultural sites.</u></p>	<p>Language proposed to be added to clarify that one of the purposes of this section is comply with federal and state law for archaeological and cultural sites.</p>	
	<p>(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws <u>on both public and private lands</u>. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; and Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."</p>	<p>HB 2624 (2008) establishes that Native American grave sites are protected on both public and private lands. Proposed change to reflect state regulation. Additionally, HB 2624 changed several sections of the Revised Code of Washington, and SCC 30.32D(2) now includes references to the RCW sections on Human Remains and Abandoned and Historic Cemeteries and Historic Graves.</p>	
	<p>(3) This chapter applies to: (a) Properties eligible for and on the Snohomish county <u>County</u> Register of Historic Places established pursuant to SCC30.32D.020; and (b) Properties listed <u>recorded</u> on the Washington State Archaeological Site Inventory <u>Information System for Architectural and Archaeological Records Data (WISAARD)</u>.</p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation (DAHP)'s database and language changed to clarify that information is recorded not listed in the database.</p>	

Archeology Code Project

<p>Index # 30.32D.200 Archaeological Survey Report</p>	<p>30.32D.200 Archaeology site Survey report. (1) Known archaeological sites are recorded on the Washington State Department of Archaeology and Historic Preservation's Geographic Information System WISAARD and or information from <u>data sharing agreements with DAHP.</u></p> <p>(2) An archaeological site may cover only a portion of a property, parcel, or lot and may be located on <u>extend onto</u> more than one property, parcel or lot.</p> <p>(3) Completion of an archaeology site report <u>a professional archaeological survey or relocation of the property to avoid the known archaeological site shall be required for:</u> (a) <u>Shall be required for</u> any construction, earth movement, clearing or other site <u>land</u> disturbance of a known archaeological site; (b) <u>Shall be required</u> for any development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map; (c) <u>May be required for any development application when information provided by Tribes or County and/or State professional archaeologists indicates that the project location has a high probability for containing archaeological resources.</u></p> <p>(4) An archaeology site report <u>A professional archaeological survey</u> required under subsection (3)(a) of this section shall: (a) Be written by a professional archaeologist as defined in <u>WAC 25.48.020 RCW 27.53.030(11);</u> (b) Be submitted to the department by the property owner or project proponent; (c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and (d) Include the results of consultation with affected Indian tribe on proposed actions to avoid or mitigate impacts of the proposed project tribes; (e) <u>Meet state and professional standards for cultural resources reporting; and</u> (f) <u>Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.</u></p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation(DAHP)'s database and to reference the data sharing agreement that the county has with DAHP.</p> <p>Proposed change for clarity.</p> <p>Proposed change to introduce a third situation in which archaeological survey reports may be required, based on information provided by County and/or State professional archaeologists that the location has a high probability for containing archaeological resources.</p> <p>Proposed change to update the reference to state law, and to ensure that archaeological survey reports for projects on known archaeological sites meet state and professional standards for cultural resource reporting.</p>	
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Archeology Code Project

<p>Index # - File Name: 4 0036 Attachment - draft changes, Chp 30.32D.pdf</p>	<p>(5) A professional archaeological survey report required under subsection (3)(b) or 3(c) of this section shall: <u>(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);</u> <u>(b) Be submitted to the department by the property owner or project proponent;</u> <u>(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and</u> <u>(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.</u></p>	<p>Proposed change to clarify the requirements for archaeological survey reports required under SCC 30.32D.200(3)(b) and SCC 60.32D.200(3)(c)</p>	
	<p>(5)<u>(6)</u> The department shall provide a copy of the archaeological site archaeological survey report to any affected Indian tribes and Washington State Department of Archaeology and Historic Preservation DAHP at the applicant's expense.</p>	<p>Proposed change to update language and to remove text that put the expense of providing copies of the archaeological survey report on the applicant. Submittal of reports is done electronically and does not incur an expense.</p>	
<p>30.32D.210 Project or permit approval for property on state register as an archaeological resource</p>	<p>(1) The county approving authority <u>director</u> shall not issue a permit for any development activity or project approval requiring an archaeology site <u>a professional archaeological survey report</u> pursuant to SCC 30.32D.200 without considering the archaeology site <u>professional archaeological survey report</u> and any comments on the report submitted by an affected Indian tribe <u>and any additional archaeological work and permitting required under Chapter 27.53 RCW.</u></p>	<p>Proposed change to comply with updated language for archaeological survey reports, and to include a reference to the requirements of state law. Language is modified to clarify that the director is the county approving authority</p>	
	<p>(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides <u>documentation of the request for tribal comments to the department.</u></p>	<p>Proposed removal to better align with state law and best tribal coordination practices.</p>	
	<p>(3) (2) Based on the information contained in the archaeology site <u>professional archaeological survey report</u> and any comments submitted by the affected Indian tribe(s) obtained during the <u>consultation review</u> process, the county approving <u>director</u> will condition the permit or approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with <u>federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.</u></p>	<p>Proposed change to update language and to include a reference to the requirements of state law. Language is modified to clarify that the director is the conditioning authority.</p>	

<p>Index #: 30.32D.225 Inadvertent discovery of archaeological resources</p>	<p>30.32D.220 Human remains or inadvertent discovery of archaeological resources found on a site.</p> <p>(1) If, during the course of construction, earth movement, clearing or other site land disturbance, human remains or archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the department director may issue a stop work order pursuant to chapter 30.85 SCC.</p> <p>(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the state office of archaeology and historic preservation <u>Washington State Department of Archaeology and Historic Preservation (DAHP).</u></p> <p>(3) After <u>Ground disturbance may not proceed until</u> consultation with any affected Indian tribe and the state office of archaeology and historic preservation <u>DAHP is completed.</u>, the state shall determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within a preservation area. This designation shall not affect underlying zoning.</p> <p>(4) <u>Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. The preservation area designation shall remain on the appropriate area within a site until</u></p> <p>(a) The human remains or archaeological resources have been completely removed from the site; or</p> <p>(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource.</p>	<p>Proposed change to replace outdated language and to remove the discovery of human remains from this section to the new 30.32D.225 Inadvertent discovery of skeletal human remains below.</p> <p>Language is modified to clarify that the director has the discretionary ability to issue a stop work order.</p> <p>Proposed change to replace an outdated reference to DAHP.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Language was modified to clarify that the director or designee is a part of the mitigation negotiation.</p>	
<p>30.32D.225 Inadvertent discovery of</p>	<p>30.32D.225 Inadvertent discovery of human remains.</p> <p>(1) <u>If, during the course of construction, earth movement, clearing, or other site disturbance,</u></p>	<p>This section has been added to conform to state law for the inadvertent discovery of skeletal human remains. HB 2624 (2008)</p>	

<p>Index # - File Name: 1_0036 Attachment - draft changes Chap 30.32D.pdf Human remains (new section)</p>	<p><u>human remains are encountered, all work shall cease immediately in an area large enough to protect the find.</u></p> <p><u>(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.</u></p> <p><u>3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.</u></p> <p><u>(4) The property owner shall also promptly notify the DAHP and the director. Under these circumstances, the director or designee may issue a stop work order pursuant to chapter 30.85 SCC.</u></p> <p><u>(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.</u></p>	<p>established the procedure for inadvertent discovery.</p> <p>In addition to the requirements of state law. SCC 32D.225(4) includes a requirement to notify the director and the DAHP.</p>	
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Piona, Amber

From: Kaehler, Gretchen
Sent: Tuesday, January 19, 2021 12:35 PM
To: chairman@sauk-suiattle.com
Cc: 'Kevin Joseph'; smitrovic@sauk-suiattle.com; Harper, Lacey
Subject: FW: Snohomish County Code changes to 30.32.D for Cultural
Attachments: Track Changes to 30.32D_12082020.docx; Proposed changes to 30.32D Historic and Archaeological Resources.docx

Dear Chairman Maltos:

My apologies for incorrectly addressing the first email. We would appreciate any comment you may have. Also we would be willing to set up a virtual meeting if you would like to discuss the changes, have questions or need clarification.

Respectfully,

Gretchen

Gretchen Kaehler
Snohomish County Archaeologist/CLG Coordinator
Cultural Resources Division
425-388-3432 (office)
425-359-1504 (mobile)

From: Kaehler, Gretchen
Sent: Monday, January 4, 2021 1:18 PM
To: chairman@sauk-suiattle.com
Cc: Kevin Joseph <kjoseph@sauk-suiattle.com>; 'smitrovic@sauk-suiattle.com' <smitrovic@sauk-suiattle.com>
Subject: Re: Snohomish County Code changes to 30.32.D for Cultural

Dear Chairwoman Joseph,

Snohomish County is proposing code changes to Chapter 30.32D Historic 30.32D Historic and Archaeological Resources in order to comply with new state laws and to clarify language and intent. Snohomish County is also committed to being proactive in regard to early identification of archaeological resources and sites. The code change are proposed to:

- Update code language to align with updated state laws for human skeletal remains and abandoned cemeteries
- Update language to clarify and align with state and professional terminology
- Provide flexibility for the county to be able to require professional archaeological surveys

I have provided two attachments. One shows the changes that were made to the original code, Track Changes to 30.32D, and the other is the proposed code changes and rationale for changes. Please feel free to contact me if you have any questions. We appreciate any comments you may have on the code changes by January 31, 2021.

Archeology Code Project

Index # - File Name: 1.0037_01-19-2021-DCNR_to_Sauk-Suiattle_Tribe-Snohomish_County_Code_Changes.pdf

Respectfully

Gretchen

Gretchen Kaehler

Snohomish County Archaeologist/CLG Coordinator

Cultural Resources Division

425-388-3432 (office)

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ODRAFT

**Chapter 30.32D
HISTORIC AND ARCHAEOLOGICAL RESOURCES**

Sections:

30.32D.010	Purpose and applicability.
30.32D.020	Creation of county register of historic places.
30.32D.030	Designation of property on county register.
30.32D.040	Criteria for designation of property on county register.
30.32D.050	Removal of properties from county register.
30.32D.060	Alteration or demolition of property on county register.
30.32D.070	Procedure for obtaining certificate of appropriateness or waiver.
30.32D.075	Exemptions.
30.32D.080	Review process for request for certificate of appropriateness.
30.32D.090	Review process for waiver of certificate of appropriateness.
30.32D.100	Applicability of zoning requirements.
30.32D.200	Archaeology site <u>Archaeological survey</u> report.
30.32D.210	Project or permit approval for property on state register as an archaeological resource.
30.32D.220	Human remains or archaeological resources found on a site.
30.32D.300	Appeals.

30.32D.010 Purpose and applicability.

(1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to

- (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history;
- (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history;
- (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts;

(d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and

(e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects.

(f) Comply with all federal and state laws related to regulation of archaeological and cultural sites.

(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws on both public and private lands. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; ~~and~~ Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."

(3) This chapter applies to:

(a) Properties eligible for and on the Snohomish ~~county~~ County Register of Historic Places established pursuant to SCC 30.32D.020; and

(b) Properties ~~listed-recorded~~ on the Washington ~~State Archaeological Site Inventory Information System for Architectural and Archaeological Records Data (WISAARD)~~.

(4) Regulations concerning the Snohomish County Historic Preservation Commission are in chapter 2.96 SCC; regulations concerning the state tax incentive program for qualifying historic properties are located in chapter 4.31 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.020 Creation of county register of historic places.

There is hereby established a Snohomish county register of historic places that identifies historic buildings, sites, structures, objects, and districts within the county. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.030 Designation of property on county register.

- (1) Listing on the county register is an honorary designation denoting significant association with the historic, architectural, archaeological, engineering, or cultural heritage of the community. Property is listed individually or as properties that as a group contribute to the historical integrity of an historic district.
- (2) The historic preservation commission, as established in Title 2 SCC, or any person may nominate a building, site, structure, object, or district for placement on the county register by submitting a letter to the historic preservation commission.
- (3) The county shall make a written recommendation to the historic preservation commission regarding the nomination and notify the property owner of the nomination, if necessary. If the property owner consents to the nomination, the department shall schedule a public meeting before the historic preservation commission to consider the nomination. The county shall publish notice of the public meeting in accordance with SCC 30.70.045 and provide mailed notice to the property owner, occupant, and nominator.
- (4) The historic preservation commission shall consider the nomination at the public meeting. If the commission finds that the nominated property meets the criteria for designation established in SCC 30.32D.040, the commission shall designate the property on the county register. If the property is so designated by the commission, the department shall indicate the designation on county zoning maps by placing "HR" on the property.
- (5) The county shall provide notice of the historic preservation commission's decision as required in SCC 30.32D.030. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 12-018, May 2, 2012, Eff date May 21, 2012).

30.32D.040 Criteria for designation of property on county register.

- (1) The historic preservation commission may designate a property or properties on the county register only if the building, site, structure, object, or district is at least fifty years old or, in the event that the property is of exceptional historical significance as determined by the commission, at least forty years old.
- (2) The commission will also consider whether the nominated property or properties:

- (a) Possess significant and important association with the history, architecture, archaeology, engineering, or cultural heritage of the county as documented in texts used as standard references by professionals in these disciplines;
- (b) Possess one or more of the following:
 - (i) integrity of location, meaning the building, structure or object has remained on the same site for fifty years or more;
 - (ii) integrity of design, meaning the design of the building, structure, object, or the structures contributing to a district have remained unchanged for fifty years or more;
 - (iii) integrity of materials, meaning the materials used in the building, object or structure are either original or have been reproduced to replicate, as closely as possible, the original materials; or
 - (iv) integrity of workmanship, meaning the building must exhibit original workmanship, or if repairs or reconstruction of a building, structure, site or object have been or need to be carried out, the methods used are as similar to the original construction methods as possible. If modern construction methods were used, the resulting repair or reconstruction must replicate the original workmanship as closely as possible;
- (c) Meet at least one of the following criteria:
 - (i) the property is associated with events that made an important contribution to national, state, or local history;
 - (ii) the property embodies architectural characteristics of a distinctive and defined type, period, style, or method of design or construction, as documented in professional architectural and historic preservation publications, or represents a significant and distinguishable entity whose components may lack individual distinction;
 - (iii) the property is an outstanding work of a recognized designer, builder, or architect whose work has been documented in professional publications as having made a substantial contribution to the artistic and aesthetic values of the community;
 - (iv) the property exemplifies or reflects elements of Snohomish county's cultural, social, economic, political, aesthetic, engineering or architectural history;
 - (v) the property is associated with the life of a person of documented importance in national, state, or local history;

- (vi) the property yields or is likely to yield important archaeological information related to history or prehistory;
- (vii) the property contains a building or structure removed from its original location but which has significant and documented architectural value, or which is the only surviving building or structure associated with an historic person or event;
- (viii) the property is a birthplace or grave of an historical figure of documented importance which is the only surviving building, structure or site associated with that person;
- (ix) the property is a cemetery which derives its primary significance from age, design features, or association with historic events or cultural patterns;
- (x) the property contains a building that has been reconstructed in an historically accurate manner on the original site; or
- (xi) the property is an example of folk architecture and design that is creative and unique, but which does not fit into formal architectural or historical categories. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.050 Removal of properties from county register.

- (1) Initiation of removal of a property from the local register may occur in one of the following ways:
 - (a) A property owner may request review of a property for removal from the local register by submitting a written request to the historic preservation commission; or
 - (b) The historic preservation commission may initiate removal.
- (2) The historic preservation commission will schedule a public meeting for consideration of removal of any property from the local register. If removal is requested by the property owner, the commission must schedule the public meeting within 30 days of receipt of the request for removal. The department shall provide notice of the public meeting in accordance with SCC 30.32D.030(3).
- (3) If the property owner has requested removal, the property owner must notify the historic preservation commission within one week of the conclusion of the public meeting that
 - (a) The property will be removed from the local register; or

(b) The property owner rescinds the removal request.

Failure by the property owner to so notify the historic preservation commission will result in the property remaining on the register.

(4) The historic preservation commission may remove property from the local register without the owner's consent if alterations to the property result in loss of historical integrity. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.060 Alteration or demolition of property on county register.

(1) An owner of property listed on the local register who proposes any physical alteration or rehabilitation of the exterior of a register property, or of interior features that are listed as contributing to the significance of the property, excluding ordinary repair, maintenance and emergency repairs, must request and receive a certificate of appropriateness from the historic preservation commission for the proposed work. If a building permit is required pursuant to subtitle 30.5 SCC for the work, issuance of a certificate of appropriateness will be a precondition to issuance of a building permit.

(2) An owner who proposes to partially or completely demolish a register property must request and receive from the historic preservation commission a waiver of a certificate of appropriateness as a precondition to issuance of a permit for demolition. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.070 Procedure for obtaining certificate of appropriateness or waiver.

(1) The applicant for a permit to perform any work described in SCC 30.32D.060 shall submit a copy of the building permit or demolition permit application to the historic preservation commission along with a request to be considered for a certificate of appropriateness or waiver.

(2) The commission shall consider a request for a certificate of appropriateness or waiver at a public meeting. The department shall publish notice of the meeting as required in SCC 30.70.045 and provide mailed notice to the applicant and the property owner.

(3) The department shall not issue a building permit or a demolition permit for a property listed on the local register until a certificate of appropriateness or waiver is issued. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.075 Exemptions.

Ordinary repair and maintenance and emergency repair do not require a certificate of appropriateness or review by the historic preservation commission. For purposes of this chapter, ordinary repair and maintenance means work for which no county permit is required by law, and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, the real property or structure and appurtenances thereto, and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage. For purposes of this chapter, emergency repair means work necessary to prevent destruction or disrepair to real property immediately threatened or damaged by fire, flood, earthquake, vandalism or other disaster. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.080 Review process for request for certificate of appropriateness.

(1) An applicant must include within a request for a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule. Information required by the commission will include information responding to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, referred to in WAC 254-20-100 and used by the Washington State Advisory Council on Historic Preservation and by the commission. A copy of the standards is available at the department front counter.

(2) When responding to a request for a certificate of appropriateness, the historic preservation commission shall review all features of the property that are proposed for alteration and that are listed as contributing to the property's designation on the local register nomination form.

(3) The commission shall meet with the applicant and review the proposed work according to the design review criteria established by administrative rule.

(4) The commission shall complete its review and make its recommendation within forty-five days of the date of receipt of the application. If necessary, the commission may extend the review period for up to an additional twenty days. If no recommendation has been made within sixty-five days, the commission is considered to have recommended approval.

- (5) The commission will provide the applicant with its written recommendation, stating the findings of fact and conclusions leading to the recommendation. Any conditions agreed to by the applicant in the review process and accepted by the commission shall become conditions of approval for any relevant permit granted and be incorporated in the commission's decision to grant a certificate of appropriateness.
- (6) If the applicant agrees to the commission's recommendation, the commission shall issue a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (7) If the applicant does not agree to the commission's recommendation and any alteration to the property is determined to be inappropriate by the commission, the property may be removed by the commission from the local register. Once the property is removed from the local register, the requirement of SCC 30.32D.060(1) shall no longer apply. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.090 Review process for waiver of certificate of appropriateness.

- (1) An applicant must include within a request for a waiver of a certificate of appropriateness any information required by the historic preservation commission as set out by administrative rule.
- (2) The commission shall review the request for a waiver in accordance with the commission's administrative rules. The commission shall consider whether there is any feasible alternative to the demolition proposed.
- (3) Following review of the request, the commission shall issue a waiver of a certificate of appropriateness, which shall be transmitted to the building official by the applicant.
- (4) As a part of the issuance of the waiver, the commission may recommend to the building official that the applicant mitigate the demolition of register property. The commission shall support any recommended requirement of mitigation with findings of fact and conclusions. Mitigation may include, but is not limited to, an identification plaque, use of an architectural element of an historic building in new construction, and/or buffering or protection of remaining elements of an historic resource. The building official shall adopt a commission recommendation for mitigation as a condition of approval of any permit granted for partial or complete demolition of the property.
- (5) After the property is partially or completely demolished, the commission shall remove the property from the local register. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.100 Applicability of zoning requirements.

Properties designated on the local register shall be subject to the provisions set forth in this title. Nothing contained in this chapter shall be construed as repealing, modifying, or waiving any other provision of this title. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.200 ~~Archaeology site~~ Archaeological Survey report.

- (1) Known archaeological sites are recorded on ~~the Washington State Department of Archaeology and Historic Preservation's Geographic Information System~~ WISAARD and or information from datasharing agreements with DAHP.
- (2) An archaeological site may cover only a portion of a property, parcel, or lot and may ~~be located on~~ extend onto more than one property, parcel, or lot.
- (3) Completion of ~~an archaeology site report~~ a professional archaeology survey or ~~relocation of the project to avoid the known archaeological site shall be required for:~~
 - (a) ~~Shall be required for~~ Anyany construction, earth movement, clearing, or other siteland disturbance of a known archaeological site;
 - (b) ~~Shall be required for~~ Anyany development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map.
 - (c) May be required for any development application when ~~Information~~ information provided by Tribes or County and/or state professional archaeologists indicates that the project location has a high probability for containing archaeological resources.
- (4) ~~An archaeology site report~~ A professional archaeology survey required under subsection (3)(a) of this section shall:
 - (a) Be written by a professional archaeologist as defined in WAC 25-48-020 RCW 27.53.030(11);
 - (b) Be submitted to the department by the property owner or project proponent;
 - (c) Include the location, ~~condition,~~ and extent of the archaeological resources located on site ~~and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and~~

(d) Include the results of consultation with affected Indian ~~tribes on proposed actions to avoid or mitigate impacts of the proposed project.~~ tribes;

(e) Meet state and professional standards for cultural resources reporting; and

(f) Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.

(5) A professional archaeological survey report required under subsection (3)(b) or (3)(c) of this section shall:

(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);

(b) Be submitted to the department by the property owner or project proponent;

(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and

(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.

~~(5)(6)~~ The department shall provide a copy of the archaeological site archaeological survey report to any affected Indian tribes and ~~the Washington State Department of Archaeology and Historic Preservation, DAHP, at the applicant's expense.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007; Amended by Amended Ord. 15-027, May 6, 2015, Eff date May 24, 2015).

30.32D.210 Project or permit approval for property on state register as an archaeological resource.

(1) The county approving authority ~~director~~ shall not issue a permit for any development activity or project approval requiring an archaeology site professional archeological survey report pursuant to SCC 30.32D.200 without considering the archaeology site professional archeological survey report and any comments on the report submitted by an affected Indian tribe and any additional archaeological work and permitting required under Chapter 27.53 RCW.

~~(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides documentation of the request for tribal comments to the department.~~

~~(2)(3) Based on the information contained in the archaeology site professional archeological survey report and any comments submitted by the affected Indian tribe(s) obtained during the consultation-review process, the county approving authority director will condition the permit or project approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003; Amended by Amended Ord. 06-037, Dec. 13, 2006, Eff date Jan. 5, 2007).

30.32D.220 ~~Human remains or~~ Inadvertent discovery of archaeological resources ~~found on a site.~~

(1) If, during the course of construction, earth movement, clearing, or other ~~site land~~ disturbance, ~~human remains or~~ archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the ~~department director~~ may issue a stop work order pursuant to chapter 30.85 SCC.

(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the ~~state office of archaeology and historic preservation~~ Washington State Department of Archaeology and Historic Preservation (DAHP).

(3) ~~After Ground disturbance may not proceed until~~ consultation with any affected Indian tribe and the ~~state office of archaeology and historic preservation DAHP is completed., the state shall determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within the site as a preservation area. No ground disturbance is permitted within a preservation area. This designation shall not affect underlying zoning.~~

(4) ~~Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. The preservation area designation shall remain on the appropriate area within a site until~~

~~(a) The human remains or archaeological resources have been completely removed from the site; or~~

~~(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource~~ (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

30.32D.225 Inadvertent discovery of human remains.

(1) If, during the course of construction, earth movement, clearing, or other site disturbance, human remains are encountered, all work shall cease immediately in an area large enough to protect find.

(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.

(3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.

(4) The property owner shall also promptly notify the DAHP, the director, and the Snohomish County Archaeologist. Under these circumstances, the director may issue a stop work order pursuant to chapter 30.85 SCC.

(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.

30.32D.300 Appeals.

Any building permit issued with conditions imposed pursuant to this chapter may be appealed as a Type 1 decision pursuant to chapter 30.71 SCC. (Added by Amended Ord. 02-064, Dec. 9, 2002, Eff date Feb. 1, 2003).

The Snohomish County Code is current through legislation passed October 3, 2018.

Disclaimer: The Clerk of the Council's Office retains the official version of the Snohomish County Code. The web version is updated as new ordinances become effective, and includes new ordinances through 18-053. New ordinances do not necessarily become effective in chronological or numerical order. Users should contact the Clerk of the Council's Office for information on legislation not yet reflected in the web version.

[County Website: snohomishcountywa.gov](http://snohomishcountywa.gov)

County Telephone: (425) 388-3494

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Proposed Changes 30.32D

Code Section	Proposed Change	Rationale	Comments
<p>30.32D.010 Purpose and Applicability</p>	<p>30.32.D.010 Purpose and applicability. (1) The purpose of this chapter is to identify, evaluate, and protect archaeological and historic resources within Snohomish County and to preserve and rehabilitate eligible historic properties for future generations, in order to: (a) Safeguard the heritage of the county as represented by those buildings, sites, structures, objects and districts which reflect significant elements of county history; (b) Foster civic pride in the beauty and accomplishments of the past, and a sense of identity with county history; (c) Assist, encourage and provide incentives to private owners for preservation, restoration, rehabilitation and use of outstanding historic buildings, sites, structures, objects, and districts; (d) Promote and facilitate the early identification and resolution of conflicts between preservation of archaeological and historic resources and land uses; and (e) Stabilize and improve the aesthetic and economic vitality and values of such sites improvements and objects; and (f) <u>Comply with all federal and state laws related to regulation of archaeological and cultural sites.</u></p>	<p>Language proposed to be added to clarify that one of the purposes of this section is comply with federal and state law for archaeological and cultural sites.</p>	
	<p>(2) In Washington State, archaeology sites and Native American grave sites are protected by both federal and state laws <u>on both public and private lands</u>. This chapter does not repeal, modify, or waive any provision of federal or state law currently enacted, or as enacted in the future, that regulates archaeological sites including, but not limited to: the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-mm); the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); the National Historic Preservation Act (16 U.S.C. 470 et seq.); Chapter 27.44 RCW titled "Indian Graves and Records"; and Chapter 27.53 RCW titled "Archaeological Sites and Resources, Chapter 68.50 RCW titled "Human Remains"; Chapter 68.60 titled "Abandoned and Historic Cemeteries and Historic Graves."</p>	<p>HB 2624 (2008) establishes that Native American grave sites are protected on both public and private lands. Proposed change to reflect state regulation. Additionally, HB 2624 changed several sections of the Revised Code of Washington, and SCC 30.32D(2) now includes references to the RCW sections on Human Remains and Abandoned and Historic Cemeteries and Historic Graves.</p>	
	<p>(3) This chapter applies to: (a) Properties eligible for and on the Snohomish county <u>County</u> Register of Historic Places established pursuant to SCC30.32D.020; and (b) Properties listed <u>recorded</u> on the Washington State Archaeological Site Inventory <u>Information System for Architectural and Archaeological Records Data (WISAARD)</u>.</p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation (DAHP)'s database and language changed to clarify that information is recorded not listed in the database.</p>	

Archeology Code Project

<p>Index # 30.32D.200 File Name: 30.32D.200 Archaeology site Survey report. Archaeological Survey Report</p>	<p>(1) Known archaeological sites are recorded on the Washington State Department of Archaeology and Historic Preservation's Geographic Information System WISAARD and or information from data sharing agreements with DAHP.</p>	<p>Proposed change to include the current name of the Washington State Department of Archaeology Historic Preservation(DAHP)'s database and to reference the data sharing agreement that the county has with DAHP.</p>	
	<p>(2) An archaeological site may cover only a portion of a property, parcel, or lot and may be located on extend onto more than one property, parcel or lot.</p>	<p>Proposed change for clarity.</p>	
	<p>(3) Completion of an archaeology site report a professional archaeological survey or relocation of the property to avoid the known archaeological site shall be required for: (a) <u>Shall be required for</u> any construction, earth movement, clearing or other site <u>land</u> disturbance of a known archaeological site; (b) <u>Shall be required</u> for any development application proposed on non-tribally owned, fee-simple properties designated Reservation Commercial on the Snohomish County Future Land Use Map; (c) <u>May be required for any development application when information provided by Tribes or County and/or State professional archaeologists indicates that the project location has a high probability for containing archaeological resources.</u></p>	<p>Proposed change to introduce a third situation in which archaeological survey reports may be required, based on information provided by County and/or State professional archaeologists that the location has a high probability for containing archaeological resources.</p>	
	<p>(4) An archaeology site report A professional archaeological survey required under subsection (3)(a) of this section shall: (a) Be written by a professional archaeologist as defined in <u>WAC 25.48.020 RCW 27.53.030(11)</u>; (b) Be submitted to the department by the property owner or project proponent; (c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid or minimize impacts on the known archaeological site; and (d) Include the results of consultation with affected Indian tribe on proposed actions to avoid or mitigate impacts of the proposed project tribes; (e) <u>Meet state and professional standards for cultural resources reporting; and</u> (f) <u>Include recommendations for avoidance or minimization of impacts on archaeological resources if present and recommendations for additional archaeological work and/or permitting to comply with state or federal laws for the protection and preservation of archaeological resources.</u></p>	<p>Proposed change to update the reference to state law, and to ensure that archaeological survey reports for projects on known archaeological sites meet state and professional standards for cultural resource reporting.</p>	

Archeology Code Project

<p>Index # - File Name: 4 0038 Attachment - draft changes, Chp 30.32D.pdf</p>	<p>(5) A professional archaeological survey report required under subsection (3)(b) or 3(c) of this section shall: <u>(a) Be written by a professional archaeologist as defined in RCW 27.53.030(11);</u> <u>(b) Be submitted to the department by the property owner or project proponent;</u> <u>(c) Include the location, condition, and extent of the archaeological resources located on site and any recommendations with respect to conditioning the activity to avoid impacts; and</u> <u>(d) Include the results of consultation with any affected Indian tribe on proposed actions to avoid impacts of the proposed project.</u></p>	<p>Proposed change to clarify the requirements for archaeological survey reports required under SCC 30.32D.200(3)(b) and SCC 60.32D.200(3)(c)</p>	
	<p>(5)(6) The department shall provide a copy of the archaeological site <u>archaeological survey report</u> to any affected Indian tribes and Washington State Department of Archaeology and Historic Preservation DAHP at the applicant's expense.</p>	<p>Proposed change to update language and to remove text that put the expense of providing copies of the archaeological survey report on the applicant. Submittal of reports is done electronically and does not incur an expense.</p>	
<p>30.32D.210 Project or permit approval for property on state register as an archaeological resource</p>	<p>(1) The county approving authority <u>director</u> shall not issue a permit for any development activity or project approval requiring an archaeology site <u>a professional archaeological survey report</u> pursuant to SCC 30.32D.200 without considering the archaeology site <u>professional archaeological survey report</u> and any comments on the report submitted by an affected Indian tribe <u>and any additional archaeological work and permitting required under Chapter 27.53 RCW.</u></p>	<p>Proposed change to comply with updated language for archaeological survey reports, and to include a reference to the requirements of state law. Language is modified to clarify that the director is the county approving authority</p>	
	<p>(2) If an applicant requests comments regarding mitigation from a potentially affected Indian tribe and the tribe fails to respond within 30 days of the request, the department may proceed with permit issuance based on the archaeology site report if the applicant provides <u>documentation of the request for tribal comments to the department.</u></p>	<p>Proposed removal to better align with state law and best tribal coordination practices.</p>	
	<p>(3) (2) Based on the information contained in the archaeology site <u>professional archaeological survey report</u> and any comments submitted by the affected Indian tribe(s) obtained during the <u>consultation review</u> process, the county approving <u>director</u> will condition the permit or approval in a manner that will avoid or minimize impacts to the archaeological resource consistent with <u>federal and state law to comply with any permitting and/or additional archaeological work required under federal and state laws for the protection of archaeological resources.</u></p>	<p>Proposed change to update language and to include a reference to the requirements of state law. Language is modified to clarify that the director is the conditioning authority.</p>	

<p>Index #: 30.32D.225 Inadvertent discovery of archaeological resources</p>	<p>30.32D.220 Human remains or inadvertent discovery of archaeological resources found on a site.</p> <p>(1) If, during the course of construction, earth movement, clearing or other site land disturbance, human remains or archaeological resources are encountered, all work shall cease immediately. Under these circumstances, the department director may issue a stop work order pursuant to chapter 30.85 SCC.</p> <p>(2) The applicant shall immediately notify the director and promptly notify any affected Indian tribe and the state office of archaeology and historic preservation <u>Washington State Department of Archaeology and Historic Preservation (DAHP).</u></p> <p>(3) After <u>Ground disturbance may not proceed until</u> consultation with any affected Indian tribe and the state office of archaeology and historic preservation <u>DAHP is completed.</u>, the state shall determine whether the site contains archaeological resources that should be preserved. The department will designate the appropriate area within a preservation area. This designation shall not affect underlying zoning.</p> <p>(4) <u>Ground disturbance may not proceed until the director and the applicant have reached an agreement in consultation with the DAHP and any affected Indian tribe regarding a plan for mitigation or preservation of archaeological resources. The preservation area designation shall remain on the appropriate area within a site until</u></p> <p>(a) The human remains or archaeological resources have been completely removed from the site; or</p> <p>(b) The department and the applicant have otherwise reached an agreement, in consultation with the state and any affected Indian tribe, that provides for the preservation of the human remains or archaeological resource.</p>	<p>Proposed change to replace outdated language and to remove the discovery of human remains from this section to the new 30.32D.225 Inadvertent discovery of skeletal human remains below.</p> <p>Language is modified to clarify that the director has the discretionary ability to issue a stop work order.</p> <p>Proposed change to replace an outdated reference to DAHP.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Proposed change to remove the designation of a preservation area and align the procedures for the inadvertent discovery of archaeological resources with state law.</p> <p>Language was modified to clarify that the director or designee is a part of the mitigation negotiation.</p>	
<p>30.32D.225 Inadvertent discovery of</p>	<p>30.32D.225 Inadvertent discovery of human remains.</p> <p>(1) <u>If, during the course of construction, earth movement, clearing, or other site disturbance,</u></p>	<p>This section has been added to conform to state law for the inadvertent discovery of skeletal human remains. HB 2624 (2008)</p>	

<p>Index # - File Name: 1_0038 Attachment - draft changes Chap 30.32D.pdf Human remains (new section)</p>	<p><u>human remains are encountered, all work shall cease immediately in an area large enough to protect the find.</u></p> <p><u>(2) The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible.</u></p> <p><u>3) The remains will not be touched, moved or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, they will report that finding to the DAHP who will then take jurisdiction over the remains.</u></p> <p><u>(4) The property owner shall also promptly notify the DAHP and the director. Under these circumstances, the director or designee may issue a stop work order pursuant to chapter 30.85 SCC.</u></p> <p><u>(5) The DAHP will proceed with its protocols for notification and coordination with tribes and local authorities.</u></p>	<p>established the procedure for inadvertent discovery.</p> <p>In addition to the requirements of state law. SCC 32D.225(4) includes a requirement to notify the director and the DAHP.</p>	
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Piona, Amber

From: Kaehler, Gretchen
Sent: Monday, January 4, 2021 2:54 PM
To: smitrovic@sauk-suiattle.com; chairman@sauk-suiattle.com
Cc: 'Kevin Joseph'
Subject: RE: Snohomish County Code changes to 30.32.D for Cultural

Thank you Slobo! I hope your holidays were good! I would be happy to discuss this with you all if you have any questions. I have been working on it since I got to the County. I think it makes things more clear and that if give the County some much needed flexibility in regard to surveys and other methodology to identify archaeological resources in advance of projects.

Gretchen Kaehler
Snohomish County Archaeologist/CLG Coordinator
Cultural Resources Division
425-388-3432 (office)
425-359-1504 (mobile)

From: smitrovic@sauk-suiattle.com <smitrovic@sauk-suiattle.com>
Sent: Monday, January 4, 2021 1:49 PM
To: Kaehler, Gretchen <Gretchen.Kaehler@co.snohomish.wa.us>; chairman@sauk-suiattle.com
Cc: 'Kevin Joseph' <kjoseph@sauk-suiattle.com>
Subject: RE: Snohomish County Code changes to 30.32.D for Cultural

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hello Gretchen,

Thanks for sending, and Happy New Year!

Hope all is well,
Slobo

From: Kaehler, Gretchen <Gretchen.Kaehler@co.snohomish.wa.us>
Sent: Monday, January 4, 2021 1:18 PM
To: chairman@sauk-suiattle.com
Cc: Kevin Joseph <kjoseph@sauk-suiattle.com>; smitrovic@sauk-suiattle.com
Subject: Re: Snohomish County Code changes to 30.32.D for Cultural

Dear Chairwoman Joseph,

Snohomish County is proposing code changes to Chapter 30.32D Historic 30.32D Historic and Archaeological Resources in order to comply with new state laws and to clarify language and intent. Snohomish County is also committed to being proactive in regard to early identification of archaeological resources and sites. The code change are proposed to:

Archeology Code Project

Index # - File Name: 1.0039_01-04-2021-Sauk-Suiattle_Tribe_email_re_Snohomish_County_Code_Changes.pdf

- Update code language to align with updated state laws for human skeletal remains and abandoned cemeteries
- Update language to clarify and align with state and professional terminology
- Provide flexibility for the county to be able to require professional archaeological surveys

I have provided two attachments. One shows the changes that were made to the original code, Track Changes to 30.32D, and the other is the proposed code changes and rationale for changes. Please feel free to contact me if you have any questions. We appreciate any comments you may have on the code changes by January 31, 2021.

Respectfully

Gretchen

Gretchen Kaehler
Snohomish County Archaeologist/CLG Coordinator
Cultural Resources Division
425-388-3432 (office)
425-359-1504 (mobile)

Piona, Amber

From: Vann, Nicholas (DAHP) <nicholas.vann@dahp.wa.gov>
Sent: Thursday, April 1, 2021 3:11 PM
To: Kaehler, Gretchen
Cc: Piona, Amber
Subject: RE: PlanView submittal 2021-S-2394 to amend Title 30 of the Snohomish County Code to address archaeological resources

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Not a problem..

Best,
Nick

Nicholas Vann, AIA | Deputy State Historic Preservation Officer
Deputy Director *[he / him / his]*
360.628.2170 (c) | nicholas.vann@dahp.wa.gov

Department of Archaeology & Historic Preservation | www.dahp.wa.gov

From: Kaehler, Gretchen <Gretchen.Kaehler@co.snohomish.wa.us>
Sent: Thursday, April 1, 2021 3:10 PM
To: Vann, Nicholas (DAHP) <nicholas.vann@dahp.wa.gov>
Cc: Piona, Amber <Amber.Piona@co.snohomish.wa.us>
Subject: RE: PlanView submittal 2021-S-2394 to amend Title 30 of the Snohomish County Code to address archaeological resources

External Email

If possible mid-April so we can get it to the Planning Commissioners ahead of their deliberation on the 27th?

Thanks Nick!

Gretchen Kaehler
Snohomish County Archaeologist/CLG Coordinator
Department of Conservation and Natural Resources
425-388-3432 (o) and 425-359-1504 (mobile)

From: Vann, Nicholas (DAHP) <nicholas.vann@dahp.wa.gov>
Sent: Thursday, April 1, 2021 3:07 PM
To: Kaehler, Gretchen <Gretchen.Kaehler@co.snohomish.wa.us>
Cc: Piona, Amber <Amber.Piona@co.snohomish.wa.us>

Archeology Code Project

Index #: File Name: 1-0040-04-01-2021-DAHP_email_2021-S-2394.pdf
Subject: RE: PlanView submittal 2021-S-2394 to amend Title 30 of the Snohomish County Code to address archaeological resources

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Is there a deadline I should know about other than the end of the 60 day notice for adoption that ends on 4/30?

Best,
Nick

Nicholas Vann, AIA | Deputy State Historic Preservation Officer
Deputy Director *[he / him / his]*
360.628.2170 (c) | nicholas.vann@dahp.wa.gov

Department of Archaeology & Historic Preservation | www.dahp.wa.gov

From: Vann, Nicholas (DAHP)
Sent: Thursday, April 1, 2021 2:56 PM
To: 'Kaehler, Gretchen' <Gretchen.Kaehler@co.snohomish.wa.us>
Cc: Piona, Amber <Amber.Piona@co.snohomish.wa.us>
Subject: RE: PlanView submittal 2021-S-2394 to amend Title 30 of the Snohomish County Code to address archaeological resources

Yes, we can certainly do that.

Best,
Nick

Nicholas Vann, AIA | Deputy State Historic Preservation Officer
Deputy Director *[he / him / his]*
360.628.2170 (c) | nicholas.vann@dahp.wa.gov

Department of Archaeology & Historic Preservation | www.dahp.wa.gov

From: Kaehler, Gretchen <Gretchen.Kaehler@co.snohomish.wa.us>
Sent: Thursday, April 1, 2021 2:17 PM
To: Vann, Nicholas (DAHP) <nicholas.vann@dahp.wa.gov>
Cc: Piona, Amber <Amber.Piona@co.snohomish.wa.us>
Subject: RE: PlanView submittal 2021-S-2394 to amend Title 30 of the Snohomish County Code to address archaeological resources

External Email

Hey Nick,

Is there any possibility of you writing something in support of the code changes? I think would help us in getting them adopted.

Best,

Gretchen

Archeology Code Project

Index # - File Name: 1.0040_04-01-2021-DAHP_email_2021-S-2394.pdf

Gretchen Kaehler

Snohomish County Archaeologist/CLG Coordinator
Department of Conservation and Natural Resources
425-388-3432 (o) and 425-359-1504 (mobile)

From: Vann, Nicholas (DAHP) <nicholas.vann@dahp.wa.gov>

Sent: Tuesday, March 23, 2021 3:12 PM

To: Kaehler, Gretchen <Gretchen.Kaehler@co.snohomish.wa.us>

Subject: FW: PlanView submittal 2021-S-2394 to amend Title 30 of the Snohomish County Code to address archaeological resources

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Hey Gretchen,

I hope you're doing well! We received this notice, and it sounds like something you might have been behind. Just wanted to check in with you to make sure you're ok with the proposed code changes.

Best,
Nick

Nicholas Vann, AIA | Deputy State Historic Preservation Officer
Deputy Director *[he / him / his]*
360.628.2170 (c) | nicholas.vann@dahp.wa.gov

Department of Archaeology & Historic Preservation | www.dahp.wa.gov

From: Larsen, Kirsten (COM) <kirsten.larsen@commerce.wa.gov>

Sent: Tuesday, March 23, 2021 3:02 PM

To: Vann, Nicholas (DAHP) <nicholas.vann@dahp.wa.gov>

Subject: PlanView submittal 2021-S-2394 to amend Title 30 of the Snohomish County Code to address archaeological resources

Hi Nick,

I wanted to make you aware if you all hadn't seen the proposed code amendment being proposed by Snohomish County to address. They did issue a DNS with the comment period ending yesterday, but the 60 notice for adoption does not end until 4/30/2021. The proposed code looks to update to code to comply with state law, clarify terminology, and expand the ability of the director to use information provided to require archaeological surveys. Please let me know if you are interested in providing comments and want to coordinate.

Thank you,
Kirsten

Kirsten Larsen, AICP | SENIOR PLANNER
Growth Management Services | Washington State Department of Commerce
1011 Plum Street SE
Olympia, WA 98504

Phone: 360-280-0320

Archeology Code Project

Index # File Name: 100400401-2021-DAHP_email_2021-S-2394.pdf

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Piona, Amber

From: Lauren Balisky <lbalisky@mukilteowa.gov>
Sent: Monday, March 15, 2021 8:39 AM
To: Piona, Amber
Subject: RE: Archaeology Code Amendments

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Good morning Amber,

Thank you for passing this along – we will let you know if we have any questions.

Have a great day,

Lauren

Note: Due to the COVID-19 Virus, Mukilteo City Hall is closed to the public. At this time, City staff is available to assist you remotely during regular business hours. Please call 425-263-8000 if you need assistance.

Sincerely,

Lauren Balisky, AICP, MPA | Planning Manager

Planning & Community Development

11930 Cyrus Way

Mukilteo, WA 98275

(425) 263-8041 | lbalisky@mukilteowa.gov



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From: Piona, Amber <Amber.Piona@co.snohomish.wa.us>

Sent: Monday, March 15, 2021 8:31 AM

To: Lauren Balisky <lbalisky@mukilteowa.gov>

Subject: RE: Archaeology Code Amendments

[WARNING: THIS MESSAGE HAS COME FROM A SENDER OUTSIDE THE CITY OF MUKILTEO NETWORK,]

Good morning Lauren,

Attached you will find a copy of the draft archaeology code amendment. The Snohomish County Planning Commission is being briefed on this project on March 23rd, with a hearing tentatively set for April 27th. I have added you to the list for updates.

Thanks!

Amber Piona, AICP (she/her) | Planner

Archeology Code Project

Index # - File Name L_0041_03_15_2021-Lauren_Balisky_email_Archaeology_Code.pdf

[Snohomish County Planning and Development Services](#)

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

425-262-2375 | amber.piona@snoco.org

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From: Lauren Balisky <lbalisky@mukilteowa.gov>
Sent: Friday, March 12, 2021 9:52 AM
To: Piona, Amber <Amber.Piona@co.snohomish.wa.us>
Subject: Archaeology Code Amendments

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Good morning Amber,

Could you provide a copy of the draft archaeology code amendment, as well as add me to the list for future updates on this project?

Note: Due to the COVID-19 Virus, Mukilteo City Hall is closed to the public. At this time, City staff is available to assist you remotely during regular business hours. Please call 425-263-8000 if you need assistance.

Sincerely,

Lauren Balisky, AICP, MPA | Planning Manager
Planning & Community Development
11930 Cyrus Way
Mukilteo, WA 98275
(425) 263-8041 | lbalisky@mukilteowa.gov



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