

# Whatcom County Planning & Development Services Staff Report

## Miscellaneous Code Amendments 2022

### I. Background Information

**File #** PLN2022-00003

**File Name:** Miscellaneous Code Amendments 2022

**Applicants:** Whatcom County Planning and Development Services (PDS)

**Summary of Request:** Proposed amendments to WCC Titles 20 (Zoning), 21 (Land Division Regulations), and 22 (Land Use and Development). This is an annual “code scrub,” wherein Planning and Development Services proposes amendments to clarify code, fix inconsistencies and grammar, and modify or add minor policies. This year’s 15 proposed code amendments include six proposed minor policy changes regarding: minimum lot width and depth in the URM zone, reducing parking stall size to 9’ x 18’, add bicycle parking requirements, and allowing Transfer of Development Rights receiving areas in Urban Growth Areas (UGAs) only. Please refer to Exhibit A (attached) where the proposed amendments and explanations are provided.

**Location:** Countywide.

**Planning Commission Recommendation:** Approve. The Planning Commission unanimously voted to recommend approval (holding back two additional suggestions for further study).

**Staff Recommendation:** Approve. The amendments are necessary to add clarity to development regulations and procedures, to keep the code up to date, and to fix some inconsistencies.

**Background:** Planning and Development Services annually proposes a series of code amendments to improve unclear wording or procedures, to correct errors or outdated text, or to amend certain policies to a small degree.

### II. Code Amendments

The proposed code amendments are found in Exhibit A. Please refer to that attachment; explanations are provided therein.

### III. Comprehensive Plan Evaluation

The proposed amendments are consistent with Comprehensive Plan’s Goal 2D to “Refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner.”

### IV. Findings of Fact and Reasons for Action

It is recommended the County Council adopt the following findings of fact and reasons for action:

1. Whatcom County Planning and Development Services has submitted an application to make various amendments to the Whatcom County Code (WCC) to make corrections, updates, and clarifications.

2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on November 14, 2022.
3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on November 7, 2022, for their 60-day review. No comments were received.
4. The Planning Commission held a duly noticed public hearing on the proposed amendments on December 8, 2022.
5. The County Council held a duly noticed public hearing on the proposed amendments on [REDACTED], 2023.
6. The amendments are consistent with Comprehensive Plan Policy Goal 2D to “refine the regulatory system to ensure accomplishment of desired land use goals in a fair and equitable manner.”
7. In reference to Exhibit A, Amendment No. 1: The amendment to require written concurrence from agencies with jurisdiction regarding building heights around airports would gain concurrence from those agencies that the FAR Part 77 imaginary surfaces is being correctly interpreted by staff and applicants.
8. In reference to Exhibit A, Amendment No. 2: The amendments to fix inconsistencies regarding public utilities regulations would (1) allow publicly owned water storage tanks regardless of their purpose (not just fireflow) as a permitted use; and (2) place all rules regarding public utilities in one place (Chapter 20.82, Public Utilities).
9. In reference to Exhibit A, Amendment No. 3: The amendments to revise the definition of “non-industrial buildings” to include other non-industrial uses would allow additional types of non-industrial buildings, such as office buildings, to enjoy the same setbacks and buffers in the HII district as public uses, restaurants, and cafes currently do.
10. In reference to Exhibit A, Amendment No. 4: The amendments to add a definition of “self-service storage facility,” standardize the various terms used for this type of facility, and allow them in the LII district would standardize the regulation of such facilities and appropriately allow this use in the LII district (in addition to the STC, RGC, GC, and NC districts where they’re currently allowed).
11. In reference to Exhibit A, Amendment No. 5: The amendments to allow HVAC systems within front, rear, and side yard setbacks (subject to size limitations in the side yard so as not to impede access by emergency responders) would encourage the use of heat pumps and other modern HVAC systems, which are typically installed adjacent to structures.
12. In reference to Exhibit A, Amendment No. 6: The amendments to revise Table 20.22.254 (minimum lot width and depth) in URM zone would remove reliance on the little-used TDR program and base such measurements on whether public sewer and water are available.
13. In reference to Exhibit A, Amendment No. 7: The amendment to reduce parking stall size from 10 x 20’ to 9’ x 18’ would reduce impervious surfaces and adopt standards found in most jurisdictions.
14. In reference to Exhibit A, Amendment No. 8: The amendments to delete §20.42.163 would fix an inconsistency with an amendment Council made in 2022.
15. In reference to Exhibit A, Amendment No. 9: The amendments to add bicycle parking requirements help encourage and accommodate increased bicycle usage in Whatcom County, thus reducing carbon footprints.

16. In reference to Exhibit A, Amendment No. 10: The proposed amendments would standardize and simplify accessory dwelling unit language and regulations.
17. In reference to Exhibit A, Amendment No. 11: The amendments would add language authorizing the use and collection of securities—an already commonly used tool—to Whatcom County’s code.
18. In reference to Exhibit A, Amendment No. 12: The addition of §22.05.014 would clarify the obligations of property owners, occupants, and applicants for development activities.
19. In reference to Exhibit A, Amendment No. 13: The addition of §22.05.130(4) would clarify that exceeding permit review timeframes does not construe either approval or denial of a permit.
20. In reference to Exhibit A, Amendment No. 14: The amendments to Chapter 20.89 would, for the most part, simplify language, and amend policy in §20.89.050(2)(a) to limit TDR receiving areas to UGAs or cities, thus better protecting rural character by better concentrating density in cities and Urban Growth Areas.
21. In reference to Exhibit A, Amendment No. 15: Through Ordinance 2022-061 Council amended the language governing seasonal clearing activity limits in the Lake Whatcom Overlay Protection district (among other things). However, staff overlooked proposing the same amendments for the Water Resources Protection Overlay district. This amendment is aimed at fixing that oversight so as to make the language consistent for both districts.
22. In addition, many of the amendments shown in Exhibit A are solely to fix grammar and have more concise language.

## **V. Conclusions**

1. The amendments are in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

## **VI. Recommendation**

Planning and Development Services recommends the Planning Commission forward the proposed amendments to the County Council with a recommendation of approval.

## **Attachments**

1. Exhibit A – Proposed Code Amendments