



## Memorandum

TO: The Honorable Whatcom County Council  
The Honorable Satpal Sidhu, County Executive

FROM: Curtis Metz, Building Services Division Manager  
Cliff Strong, Senior Planner

THROUGH: Steve Roberge, Assistant Director, Planning and Development Services

DATE: February 23, 2024

SUBJECT: Adoption of the 2021 International Building, Fire, & Associated Codes and Elimination of the Board of Appeals

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### Purpose

As required by RCW Chapter 19.27, the purpose of the proposed ordinance is to adopt by reference, with certain amendments, the Washington State Building Code Council approved versions of the:

- 2021 International Building Code
- 2021 International Residential Code
- 2021 International Mechanical Code
- 2021 International Fire Code
- 2021 International Wildland Urban Interface Code
- 2021 Uniform Plumbing Code
- 2021 International Existing Building Code
- 2021 International Swimming Pool and Spa Code;
- 2021 International Fuel Gas Code
- 2021 Washington State Energy Code
- 1997 Uniform Code for the Abatement of Dangerous Buildings
- And certain Americans with Disabilities Act provisions

Each of these has certain Whatcom County-specific amendments, exclusions, and/or appendices proposed for adoption (or exclusion), with a complete referenced list is found in Exhibit A, WCC §15.04.010 (Adoption of Referenced Codes).

### Background

Generally, every three years the International Code Council updates the international building and related codes to provide updated information, code, and changes to previous codes to provide a reasonable level of safety, public health, and general welfare through structural strength, means of egress, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment. The updated codes are released and publicized by the International Code Council on the 1<sup>st</sup> of January every code cycle year. The codes are then reviewed and amended by the Washington State Building Code Council, a process taking approximately one year. The Washington State Amendments are then released and publicized around the 1<sup>st</sup> of January of the following year, and then scheduled to be adopted on the 1<sup>st</sup> of July of that year.

These codes and amendments are required to be adopted by the cities and counties per RCW 19.27 and go into effect the date designated by the State Building Code Council (SBCC). The cities and counties should adopt and amend as allowed and deemed appropriate by the local jurisdiction to be in place by the effective date of the new codes.

However, the 2021 codes have taken a slightly different path due to a contested section of the Washington State Energy Code (WSEC) and the Wildland Urban Interface Code (WUIC). The typical adoption date of July 1, 2023 was pushed back by the State Building Code Council (SBCC) when they voted on May 24, 2023, to delay the effective date of the 2021 codes for 120 days, which changed the effective date from July 1, 2023, to October 29, 2023. On September 15, 2023, the State Building Code Council agreed on another delay. The new effective date for all building codes is March 15, 2024.

The SBCC directed their staff to convene two Technical Advisory Groups to consider stakeholder proposals to modify sections in the commercial and residential energy codes. The modification was intended to address legal uncertainty stemming from the decision in *California Restaurant Association v. City of Berkeley* recently issued by the Ninth Circuit Court of Appeals. Postponing the adoption date by 120 days allowed the SBCC to revise sections of the WSEC to comply with the decision of the Ninth Circuit Court of Appeals

The 2021 Codes, including the 2021 WSEC, therefore will go into effect on March 15<sup>th</sup>, 2024. Individual cities and counties cannot change or amend the building codes themselves, but they can amend the administrative provisions and appendices to suit their particular operational or procedural needs.

## **Significant changes to the international code**

Most of the changes to the International codes are minor in nature and have to do with clean-up and providing more clarity. The more significant changes are:

### **Wildland Urban Interface Code (WUIC)**

In the previous 2018 codes, portions of the WUIC were adopted under the International Fire Code. The maps provided by the Department of Natural Resources (DNR) were inadequate due to plot size and accuracy, and as only portions of the IWUIC code were adopted by the State it was virtually impossible to implement or enforce.

In the 2021 version of the IWUIC, the SBCC has (proposed) adopting the full body of the code (with State amendments). With that, and with the DNR having improved their mapping, parcels can be evaluated according to their actual wildland interface category. This will allow levels of fire rated construction and defensible spaces to be better defined and will provide direction on what will be required, if anything.

At this time there is a new Bill proposed (SB 6120-2023-24) (Engrossed – ESB 6120) of proposed changes to the Wildland Urban Interface code that has been introduced to the Senate and passed Chamber, and is now in the House committee and is back up for review by the State Building Code Council on February 29<sup>th</sup>. If passed and adopted, would drastically change current proposed code language. Therefore, this portion of the State Building Codes will go into effect once the final language has been approved.

The objective of this code is to establish minimum regulations consistent with nationally recognized best practices for the safeguard of life and for property protection. Regulations in this code are intended to mitigate the risk to life and structures from intrusion of fire from wildland fire exposure and fire exposure from adjacent structures, and to mitigate structure fires from spreading to wildland fuels. The extent of this regulation is intended to be tiered commensurate with the relative level of hazard present.

## **Washington State Energy Code (WSEC)**

The SBBC, as set forth in RCW 19.27A, has adopted the new 2021 Washington State Energy Code for Commercial and Residential structures and will go into effect on March 15<sup>th</sup>, 2024. The adoption of the new code addresses progress toward a 70% reduction in net annual energy consumption in newly constructed residential and nonresidential buildings by 2031, as compared to the 2006 WSEC. RCW 19.27A.020(2)(a) states that the Washington State Energy Code shall be designed to require increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031. Building energy efficiency is the single largest factor in the region's future electric needs. As presented in the energy code, the revised fuel normalization tables, increased insulation and "U" values and improved thermal air barriers have increased the energy efficiency and air tightness of newly built structures towards the goal of meeting the 70% reduction in energy consumption as compared to the 2006 Washington State Energy Code.

## **Proposed Whatcom County Title 15 Amendments to the Administrative Provisions of the 2018 Codes**

### **Clean-Up & Reorganization**

Most of the amendments to Title 15 have to do with cleaning it up. There are a lot of outdate references, text, position titles, bad grammar, etc.

### **Proposed Policy Changes**

**Permit Expiration** – The permit expiration requirement as stated in in the International codes and as interpreted by PDS Policy PL1-74-002Z (Building Permit Expiration) allows extension of permits in 180-day increments. The first extension request is free, the second and third extensions requests have a fee of \$123.60 each, and the fourth and final extension request has a fee of 50% of the original building permit fee. At the end of each month the administrative staff send out letters of pending expiration for each permit that has had no activity within the past 150 days. After those letters go out, the clients either request a monument inspection to show progress or request an extension. All extension requests are reviewed and processed by the Building Official or the Building Services Division Manager. They review the permit and approve or deny the extension, update the permit tracking system, and create invoices to assess required fees, as necessary. The time to notify, receive, process, invoice, and contact the clients with pending expired permits takes up a lot of staff time with no real benefit to the client or public. Approximately 90% or more of the permits issued through PDS are "finaled" within a two-year period. Of those permits, approximately 50% use at least one, two, or three extensions. Very few use the fourth and final extensions.

The proposed change to the expiration period to two years with the one time, one-year extension, and a one time 90-day extension to get a "Final" would reduce or alleviate any additional fees to the clients and free up a large chunk of time for the staff to work on other permits. Skagit County and the City of Bellingham have adopted similar expiration timelines.

**Manufactured Homes** – Item G Section 3, letter "c". Added verbiage that allows a homeowner to install their own manufactured home per WAC 296-1501-0110 as adopted by the Department of Labor and Industries. Added language "A homeowner may install their own manufactured home per WAC296-1501-0110 once they have taken and passed trainings and testing as provided by the Department of Labor and Industries. A homeowner is allowed to install one home for their personal use under their one-time certification."

**Section 15.04.040 Amendments to the International Fire Code – Item "G"**. Change language to reflect the changes from the Sheriffs Office that no longer allows Fire Inspectors/Investigators to be specially

commissioned peace officers and to define the roles for Fire Investigation between the Fire Marshal's Office and the Sheriff's office.

**Section B105 Fire-, Section B105.1.1** – Changed language to clarify when sprinklers would be required for residential and residential accessory structures that contain habitable space.

### **Staff Recommendation**

PDS recommends that the Council adopt the proposed ordinance amending WWC Title 15 (Building & Construction) to adopt the 2021 International Building and associated Codes, as amended.