



Whatcom County

COUNTY COURTHOUSE
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Agenda Bill Report

File Number: AB2023-748

File ID:	AB2023-748	Version:	1	Status:	Adopted
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Department:	Planning and Development Services Department	File Type:	Ordinance Requiring a Public Hearing		
Assigned to:	Council	Final Action:	12/05/2023		
Agenda Date:	12/05/2023	Enactment #:	ORD 2023-078		
Related Files:					

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TITLE FOR AGENDA ITEM:

Ordinance adopting various amendments to Whatcom County Code Title 20, Zoning, and Title 21, Land Division Regulations

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Proposed amendments to WCC Titles 20 (Zoning) and 21 (Land Division Regulations). 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 9 proposed code amendments include two proposed policy changes regarding: overflow parking for certain residential developments using private roads, and a requirement that garbage collection service providers review and approve proposed garbage enclosures.

HISTORY OF LEGISLATIVE FILE

Date:	Acting Body:	Action:	Sent To:
11/21/2023	Council	INTRODUCED FOR PUBLIC HEARING	Council
		Aye: 5 Buchanan, Donovan, Frazey, Galloway, and Kershner	
		Nay: 1 Elenbaas	
		Absent: 1 Byrd	
12/05/2023	Council	ADOPTED	

Agenda Bill Report Continued (AB2023-748)

Aye: 7 Buchanan, Byrd, Donovan, Elenbaas, Frazey, Galloway, and Kershner

Nay: 0

Attachments: Staff Report, Ordinance, Notice of Hearing after 11.21.2023.pdf

ORDINANCE NO. 2023-078

AN ORDINANCE ADOPTING VARIOUS AMENDMENTS TO WHATCOM COUNTY CODE TITLES 20 (ZONING) AND 21 (LAND DIVISION REGULATIONS)

WHEREAS, The Council’s 2023 docket includes item PLN2023-00003, “Review and revise the Whatcom County Zoning Code and other sections of the County Code to implement Comprehensive Plan policies and/or address issues identified in the administration of the codes. Revisions needed to achieve consistency with the Growth Management Act may also be considered.”

WHEREAS, Whatcom County Planning and Development Services has proposed amendments to Whatcom County Code Titles 20 and 21 to fulfill this directive; and,

WHEREAS, The Whatcom County Council reviewed and considered the Planning Commission recommendation, staff recommendation, and public comments on the proposed amendments; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. Whatcom County Planning and Development Services has applied to make various amendments to the Whatcom County Code (WCC) to make corrections, updates, and clarifications pursuant to docket item PLN2023-00003.
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on September 19, 2023. No comments have been received to date.
3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on September 11, 2023, for their 60-day review. No comments were received.
4. The Planning Commission held a duly noticed public hearing on the proposed amendments on October 12, 2023.
5. The County Council held a duly noticed public hearing on the proposed amendments on December 5, 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.” There are no policies with which these amendments would be inconsistent.
7. In reference to Exhibit A, Amendment No. 1: This amendment deletes a reference to a section that hasn’t existed since the 1990s.
8. In reference to Exhibit A, Amendment No. 2: This amendment clarifies that submittal requirements for final plats are contained in the Planning and Development Services Administrative Manual.
9. In reference to Exhibit A, Amendment No. 3: This amendment exempts temporary non-commercial signs in public rights-of-way from regulations, as per the Washington State Attorney General issued opinion.
10. In reference to Exhibit A, Amendment No. 4: This amendment would require that Planning and Development Services notifies and includes garbage collection providers in site plan review to ensure that trash receptacles are accessible by them.

11. In reference to Exhibit A, Amendment No. 5: This amendment deletes duplicative and confusing floor area regulations for the RGC/RIM designation.
12. In reference to Exhibit A, Amendment No. 6: This amendment clarifies that WCC 20.72.654 applies only in the Small Town Commercial District of Point Roberts.
13. In reference to Exhibit A, Amendment No. 7: This amendment aligns the rules for requiring the installation of frontage improvements for commercial development in Point Roberts with the practices of Whatcom County Public Works.
14. In reference to Exhibit A, Amendment No. 8: This amendment would require overflow parking for certain residential developments using private roads so as to minimize traffic congestion and ensure that emergency services can access all properties.
15. In reference to Exhibit A, Amendment No. 9: This amendment updates Whatcom County's child care facilities standards to comply with recent amendments to the State's regulations.
16. In addition, many of the amendments shown in Exhibit A are solely to fix grammar and have more concise language.

CONCLUSIONS

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

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. Amendments to the Whatcom County Code are hereby adopted as shown in Exhibit A.

Section 2. Staff is authorized to work with Code Publishing to correct and update any cross-references made ineffective by these amendments.

Section 3. Severability. Should any part of this regulation be held to be illegal, unconstitutional, or otherwise unenforceable, the remainder of the regulation shall still apply.

ADOPTED this 5th day of December, 2023.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


ATTEST


Dana Brown-Davis, Council Clerk

APPROVED as to form:

/s/Royce Buckingham approved via email on 11/16/2023/MR

Royce Buckingham, Civil Deputy Prosecutor


Barry Buchanan, Council Chair

Approved () Denied


Satpal Sidhu, Executive

Date: 12/8/23

Exhibit A: 2023 Miscellaneous Code Amendments

1) Cleaning Up an Old Cross-Reference

Title 20 ZONING

Chapter 20.35 Eliza Island (EI) District

20.35.350 Building setbacks.

.351 Minimum front, side, and rear yard setbacks shall be five feet.

2) Cleaning up final plat/recording language

Title 21 LAND DIVISION REGULATIONS

Chapter 21.05 Preliminary Long Subdivisions

21.05.039 Phasing, expiration and time extension for preliminary long subdivision approval.

- (1) Except as provided by subsection (1)(a) of this section, a final plat shall be submitted for approval within seven years of the date of preliminary plat approval if the date of preliminary plat approval is on or before December 31, 2014, and within five years of the date of preliminary plat approval if the date of preliminary plat approval is on or after January 1, 2015.
 - (a) A final plat shall be submitted for final plat approval within 10 years of the date of preliminary plat approval if this project is not subject to requirements adopted under Chapter 90.58 RCW and the date of preliminary plat approval is on or before December 31, 2007.
 - (b) All final plat submittals shall be in the format and meet the submittal requirements specified in the Planning and Development Services Administrative Manual.
- (2) Extension of Time for Submittal of Final Long Subdivision. The expiration of a preliminary long subdivision approval may be extended under the following provisions:
 - (a) An applicant files a written request prior to expiration of the five-year expiration period. The request shall state the specific work items, standards, and criteria that have not been completed and the reasons therefor. The request shall also indicate when the work will be completed. The Director shall review the request and provide a recommendation to the Hearing Examiner.
 - (b) The Hearing Examiner shall have authority to grant one one-year extension subsequent to the original preliminary plat approval.
 - (c) The one-year extension may be granted if, after taking into consideration technical, economic, and other matters beyond the control of the applicant, the Hearing Examiner finds that there is reasonable justification for the granting of an extension.
 - (d) In granting the one-year extension the Hearing Examiner shall take into consideration such changes in rules, regulations, ordinances, or development standards, or portions thereof, that have occurred since the time the original approval was granted.

- (e) The Hearing Examiner may condition the extension so as to require compliance with any such subsequently adopted rules, regulations, ordinances, or development standards, or portion thereof, that are deemed necessary to protect the public health, safety, and welfare.
- (3) Phased Subdivision. An applicant may seek approval of a phasing plan at the time of preliminary subdivision approval. If phasing is approved as part of a preliminary subdivision, the phasing plan shall expire 10 years from the date of preliminary approval. Each phase submitted after five years from the date of preliminary approval shall comply with the rules, regulations, and ordinances in effect as of the date construction plans are submitted for each phase.

3) Exemption of Temporary Non-Commercial Signs from Regulation

20.80.470 Exemptions.

(...)

- (8) Non-commercial temporary signs in public rights-of-way subject to the following:
- a) Such signs are only allowed in non-hard surface areas of the right-of-way.
 - b) No sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, bench, or any type of street furniture, or otherwise create a hazard, including a trip hazard.
 - c) Such signs shall meet the requirements of WCC 20.80.200(3) (Vision Clearance).
 - d) Such signs shall only be installed on stakes that can be manually pushed or hammered into the ground; all other installation signs are prohibited unless specifically allowed by a right-of-way use permit.
 - e) Such signs shall not be located in rights-of-way adjacent to County or other government-owned facilities or properties.
 - f) Signs are limited to four square feet total per side and three feet in height, from the ground to the top of the sign.
 - g) Such signs shall be removed if in need of repair, worn or dilapidated, or create a public nuisance.

TITLE 20 ZONING

Chapter 20.80 Supplementary Requirements

20.80.300 Landscaping.

(...)

20.80.355 Trash or garbage collection storage areas – Screening and placement.

Garbage disposal facilities shall be provided in accordance with applicable Whatcom County Board of Health rules and regulations (WCC Chapter 8.10). All trash or garbage collection storage areas must be screened from view from adjacent streets and properties using a solid fence or wall a minimum of six feet high. The garbage collection service provider shall be provided opportunity to approve the location prior to permit approval.

4) Clarify RGC/RIM floor area rules

TITLE 20 ZONING

Chapter 20.59 Rural General Commercial (RGC) District

20.59.320 Maximum building size.

.322 In a Rural Business designation the maximum allowable floor area for a new use is 12,000 square feet per building as provided in WCC 20.80.100(3) and (4). For buildings in which nonresidential uses existed on July 1, 2012, building size expansion to no greater than 20,000 square feet is permitted.

Chapter 20.69 Rural Industrial and Manufacturing (RIM) District

20.69.300 Maximum building size.

.302 In a Rural Business designation the maximum allowable floor area per building is 12,000 square feet as provided in WCC 20.80.100(3) and (4). For buildings in which nonresidential uses existed on July 1, 2012, building size expansion to no greater than 20,000 square feet is permitted.

Chapter 20.80 Supplementary Requirements

20.80.100 LAMIRD requirements.

(...)

- (3) Within a rural business designation, a larger building size for new nonresidential development is permitted if a conditional use permit is granted per WCC 22.05.026. A conditional use permit for a larger building size shall be subject to a finding that:
- (a) The larger building size will not cause the need for additional public facilities to be provided in the area;
 - (b) The proposal is consistent with the Comprehensive Plan policies regarding the rural business designation; and
 - (c) The proposed small-scale business conforms to the rural character of the area.

5) Clarify that WCC 20.72.654 applies only in the Small Town Commercial District

TITLE 20 ZONING

Chapter 20.72 Point Roberts Special District

20.72.654 Site design/view corridors. (Adopted by reference in WCCP Chapter 2.)

In the Small Town Commercial district, scenic views and open space shall be considered in all development and the site plan designed to ensure view access is maximized while maintaining reasonable use of the development site.

6) Clarify rules for requiring the installation of frontage improvements for commercial development in Point Roberts

TITLE 20 ZONING

Chapter 20.72 Point Roberts Special District

20.72.657 Non-vehicular access

1. When determined to be required by Whatcom County Public Works pursuant to Whatcom County Public Works' road standards, Chapter 5, commercial development or redevelopment of any parcel along Tyee Drive, Gulf Road, Marine Drive, and APA Road shall be required to install appropriate street improvements along the road frontage of the parcel. Such frontage improvements may include curbs, gutters, sidewalks, boardwalks, benches, lighting, and appropriate provisions for bicycle and equestrian facilities in accordance with the applicable road standards for the classification of those streets. Planting of street trees along the road frontage(s) of the subject parcel shall be required pursuant to WCC 20.80.325. These requirements may be waived if a local improvement district, road improvement district, or transportation benefit district is formed for the purpose of providing the aforementioned improvements.

7) Require overflow parking for certain residential developments using private roads.

TITLE 20 ZONING

Chapter 20.80 Supplementary Requirements

20.80.580 Parking space requirements.

For the purpose of this ordinance, the following parking space requirements shall apply (See also WCC 20.97.140):

(...)

(21) Duplex: 2 for each unit, plus for any duplex development of more than 4 units within a UGA or LAMIRD: 1 overflow space for every 2 units.

(...)

(38) Multifamily dwelling: 3 for each 2 units, plus for any multifamily development of more than 4 units within a UGA or LAMIRD: 1 overflow space for every 2 units.

(...)

(50) Single-family dwelling: 2 for each unit, plus for any single-family development of more than 4 units within a UGA or LAMIRD: 1 overflow space for every 2 units.

(...)

8) Update Child Care Facilities Standards to Comply with State Code

TITLE 20 ZONING

Chapter 20.97: Definitions

Day Care Center

“Day care center” means a business regularly providing childcare during part of the 24-hour day to any number of children in commercial structure.

Day Care Home.

“Family day care home” means an occupied dwelling unit regularly providing childcare services during part of the 24-hour day for twelve or fewer children in the family abode of the person or persons under whose direct care the children are placed. Such care in a family day care home is limited to twelve or fewer children, including those children living in the home or children of other close relatives cared for in the home.

Chapter 20.20 Urban Residential (UR) District

20.20.100 Accessory uses.

(...)

.105 Day care homes.

(...)

Chapter 20.22 Urban Residential – Medium Density (URM) District

20.22.100 Accessory uses.

(...)

.105 Day care homes.

(...)

Chapter 20.24 Urban Residential Mixed (UR-MX) District

20.24.100 Accessory uses.

(...)

.105 Day care homes.

(...)

Chapter 20.32 Residential Rural (RR) District

20.32.100 Accessory uses.

(...)

.105 Day care homes.

(...)

Chapter 20.34 Rural Residential-Island (RR-I) District

20.35.100 Accessory uses.

(...)

.107 Day care homes.

(...)

Chapter 20.35 Eliza Island (EI) District

20.35.100 Accessory uses.

(...)

.107 Day care homes.

(...)

Chapter 20.36 Rural (R) District

20.36.100 Accessory uses.

(...)

.108 Day care homes.

(...)

Chapter 20.40 Agriculture (AG) District

20.40.100 Accessory uses.

(...)

.112 Day care homes.

(...)

Chapter 20.59 Rural General Commercial (RGC) District

20.59.050 Permitted uses.

(...)

.051 Retail and office type uses.

(...)

(6) Day care centers.

(...)

20.59.100 Accessory uses.

(...)

.104 Day care homes.

(...)

Chapter 20.60 Neighborhood Commercial Center (NC) District

20.60.050 Permitted uses.

(...)

.053 Public and community type uses.

(1) Adult care centers and day care centers.

(...)

20.60.100 Accessory uses.

(...)

.104 Day care homes.

(...)

Chapter 20.61 Small Town Commercial (STC) District

20.61.050 Permitted uses.

(...)

.051 Retail and office type uses.

(...)

(7) Day care centers.

(...)

20.61.100 Accessory uses.

(...)

.108 Day care homes.

(...)

Chapter 20.62 General Commercial (GC) District

20.62.050 Permitted uses.

(...)

.069 Day care centers; provided, that such uses require a conditional use permit if located within airport overlay zone 2 or 3 as shown in Whatcom County Comprehensive Plan Appendix H.

(...)

20.62.100 Accessory uses.

(...)

.104 Day care homes; provided, that such uses require a conditional use permit if located within Airport Overlay Zone 2 or 3 as shown in Whatcom County Comprehensive Plan Appendix H.

(...)

Chapter 20.63 Tourist Commercial (TC) District

20.63.050 Permitted uses.

(...)

.051 Retail and office type uses.

(...)

(9) Day care centers.

(...)

20.63.100 Accessory uses.

(...)

.104 Day care homes.

(...)

Chapter 20.64 Resort Commercial (RC) District

20.64.050 Permitted uses.

(...)

.055 Public and community type uses.

(...)

(3) Day care centers.

(...)

20.64.100 Accessory uses.

(...)

.120 Day care homes.

(...)

Chapter 20.66 Light Impact Industrial (LII) District

20.66.050 Permitted uses

(...)

.083 Day care centers.

(...)

Chapter 20.67 General Manufacturing (GM) District

20.67.050 Permitted uses.

(...)

.052 Public/community type uses.

(...)

(4) Day care centers.

(...)

Chapter 20.68 Heavy Impact Industrial (HII) District

20.68.050 Permitted uses.

(...)

.108 Day Care Centers.

(...)

Chapter 20.69 Rural Industrial and Manufacturing (RIM) District

20.69.050 Permitted uses.

(...)

.055 Public/community type uses.

(...)

(4) Day care centers

(...)