

# Whatcom County Planning & Development Services Staff Report

## Miscellaneous Code Amendments 2021

### I. Background Information

**File #** PLN2019-00006

**File Name:** Miscellaneous Code Amendments 2021

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

**Summary of Request:** Proposed amendments to WCC Titles 20 (Zoning) and 22 (Land Use and Development). This is an annual “code scrub,” wherein staff proposes amendments to clarify code, fix inconsistencies and grammar, and modify certain policies to a small degree.

**Location:** Countywide.

**Background:** Planning and Development Services annually proposes a series of code amendments to improve unclear wording or procedures, or to correct errors or outdated text. This year’s 8 proposed code amendments include such items as well as one proposed policy change (found in proposed amendment 3 addressing the process for exceeding forestland retention limits in the Rural Forestry district).

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

Staff recommends the Planning Commission adopt the following findings of fact and reasons for action:

1. The Council’s 2021 docket includes item PLN2021-00006, “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.”
2. Whatcom County Planning and Development Services submitted an application to make various amendments to the Whatcom County Code (WCC) to make corrections, updates, and clarifications.
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on December 17, 2021.

4. Notice of the subject amendment was submitted to the Washington State Department of Commerce on December 10, 2021, for their 60-day review. No comments were received.
5. The Planning Commission held a duly noticed public hearing on the proposed amendments on January 13, 2021.
6. The County Council held a duly noticed public hearing on the proposed amendments on \_\_\_\_\_, 2022.
7. 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.”
8. In reference to Exhibit A, Amendment No. 1: The proposed amendments to WCC 20.04.035 only cleans up outdated references to certain County departments and divisions.
9. In reference to Exhibit A, Amendment No. 2: The proposed amendments to WCC 20.38.060 only fix grammar.
10. In reference to Exhibit A, Amendment No. 3: Unlike in other districts the existing lot coverage section of the Rural Forestry district contains both lot coverage rules *and* forestland retention rules. The proposed amendments to WCC 20.42.450 and addition of 20.42.455 would split these concepts into separate sections. Additionally, the current forestland protection regulation allows the 20% limit to be exceeded through a Conditional Use Permit (CUP) (or Planned Unit Development (PUD)), which worked fine in the past for the forestry industry when it was more prominent. However as the forestry industry subsides more and more houses are being built in this district, and builders are using the CUP process to clear more forest so as to obtain hilltop views, contrary to the intent of this district. Changing the process for exceeding the 20% clearing limit would require that such applicants, if not doing a PUD, show a hardship for doing so (which in some instances may be warranted), which is not a CUP criteria. The remaining members of Council’s Forestry Advisory Committee were consulted and have endorsed these amendments.
11. In reference to Exhibit A, Amendment No. 4: The amendments to WCC 20.22.662, 20.24.652, 20.32.652, 20.34.652, 20.36.652, 20.37.651, 20.40.662, 20.42.652, and 20.43.662 would make the mineral lands disclosure requirement of 500 (rather than 300) feet consistent with WCC 14.06.030(B) (Mineral Resource Land – Disclosure), a change Council made in 2003 (ORD2003-061). Though Council updated that section, the revised distance was not carried through to the language in the individual districts, creating an inconsistency. These amendments would rectify that.
12. In reference to Exhibit A, Amendment No. 5: The amendment to WCC 20.36.156, 20.40.165, 20.42.157, 20.51.101, 20.59.201, 20.61.051, 20.62.155, 20.66.082, 20.71.221, 20.72.154, and 20.72.204, and the addition of 20.97.004 would standardize the language used for kennels and accessory kennels, as suggested by the Whatcom County Hearing Examiner.
13. In reference to Exhibit A, Amendment No. 6: In 2009 via Ord. 2009-034, the Council amended the definitions of and standards for the various types of childcare centers the County allows, and adopted new definitions. However, the previous (then existing) definitions were not deleted. Additionally, Ord. 2009-034 designated family day care homes as an accessory use (in the 9 zones where they were allowed), but failed to remove them as permitted uses, so now they’re listed as both in 5 of those zones. The amendments would delete family day care homes as permitted in those 5 zones, leaving them as an accessory use. Doing this will not change in what districts family day care homes are allowed as an accessory use, as they would still be listed as such in the UR, URM,

UR-MX, RR-I, R, TZ, AG, NC, and RGC districts. The deletion of WCC 20.20.059, 20.22.057, 20.24.057, 20.37.056, 20.40.057, and 20.97.052.1 would clean up these inconsistencies.

14. In reference to Exhibit A, Amendment No. 7: The amendments to WCC 20.40.254 clarify which general standards apply only to agricultural short plats vs. agricultural boundary line adjustments.
15. In reference to Exhibit A, Amendment No. 8: The amendment to WCC 22.05.100(3) clarifies the timeline for applicants to respond to a Notice of Additional Requirements.
16. In reference to Exhibit A, Amendment No. 9: The amendments to WCC 20.51.080, 20.59.050, 20.60.050, 20.61.050, and 20.71.200 only substitutes the word “marijuana” with “cannabis” to reflect changes the Council made to the County’s marijuana regulations on 2/8/22.

## **V. Proposed Conclusions**

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

## **VI. Recommendations**

On January 13, 2022, the Planning Commission voted 6 to 0 (3 members absent) to recommend to Council approval of the proposed code amendments. Planning and Development Services staff concurs with their recommendation as the amendments are necessary to add clarity to development regulations and procedures, to keep the code up to date, and to fix some inconsistencies.

## **Attachments**

1. Draft Ordinance
2. Exhibit A – Proposed Code Amendments