

WHATCOM CONSERVATION DISTRICT
WHATCOM COUNTY, WASHINGTON

RESOLUTION NO. 22-03

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE WHATCOM CONSERVATION DISTRICT, WHATCOM COUNTY, WASHINGTON, RELATING TO A SYSTEM OF RATES AND CHARGES; ESTABLISHING A PROCESS TO PROVIDE FOR LAND OWNER APPEALS OF RATES AND CHARGES AS APPLICABLE TO A PARCEL OR PARCELS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO ALL AS MORE PARTICULARLY SET FORTH HEREIN.

The Board of Supervisors of the Whatcom Conservation District, Whatcom County, Washington, hereby resolves as follows:

SECTION 1. FINDINGS AND DETERMINATIONS. The Board of Supervisors (“Board”) of the Whatcom Conservation District, Whatcom County, Washington (“District”) hereby makes and enters into the following findings and determinations:

1.1 By Resolution No. 2022-02 and pursuant to Chapter 89.08.405, RCW the District has proposed to Whatcom County (“County”) a system of rates and charges to help pay for the costs of carrying out the District’s programs, services, and conservation projects.

1.2 Chapter 89.08.405(5)(a), RCW provides that the District shall establish by resolution a process for landowner appeals of rates or charges (collectively, “rates”) as applicable to a parcel or parcels.

1.3 The process authorized by the Legislature for the District’s collection of rates is through the Whatcom County-managed property tax statement. This resolution establishes an appeal process, as required by Chapter 60, Laws of 2012, that is available to owners of property following receipt of annual property tax statements.

SECTION 2. APPEAL OF RATES.

2.1 Any person subject to rates as proposed by Resolution No. 2022-02, may appeal a rate by applying in writing to the District. The rate appealed must first be paid. Filing an appeal does not extend the period for payment of the rate. Appeals involving delinquent accounts will not be acted upon until paid in full.

2.2 An appeal and request for a bill adjustment may be based on one or more of the following:

EXHIBIT D

2.2.1 The area of the parcel is incorrect;

2.2.2 The property is not assigned the proper rate category;

2.2.3 The parcel is wholly or partially outside the District boundaries; or

2.2.4 The rate is otherwise erroneous in applying the terms of Resolution No. 2022-02, as adopted by Whatcom County.

2.3 Any appeal and application for adjustment may be made to the District and shall be decided by the District Board of Supervisors. The burden of proof shall be on the appellant to show that the rate adjustment sought should be granted. All decisions of the District regarding an appeal shall be final and conclusive.

2.4 Any appeal and application for rate adjustment must be filed no later than twenty-one (21) days after the due date of the first payment of annual property taxes established by Whatcom County. An appeal shall include the following information: the Whatcom County property tax parcel identification number; the name of the owner of the property; a written statement of the basis for the appeal; the address of the owner if different from the address shown on the records of Whatcom County assessor; the appellant's phone number(s) for communication with the appellant; and, the signature of the owner(s) of the property. An appellant is responsible for advising the District of any change in any mailing address or phone number. Failure to respond to District communications regarding an appeal shall be grounds for dismissal of the appeal.

2.5 Hearing Process.

2.5.1 Prehearing Conference. Once an appeal has been timely filed, the District's District Manager or designee shall schedule a Prehearing Conference with the appellant within fourteen (14) days. An appellant is required to participate in the Prehearing Conference to assist in expediting the appeal, setting a hearing date and identifying the potential for settlement. If the hearing date is not established at the Prehearing Conference, the District shall give separate written notice to appellant no later than fourteen (14) days prior to the hearing.

2.5.2 Expert Witnesses. An appellant shall file in writing all direct expert testimony from appellant's expert witnesses that the appellant intends to rely upon, along with copies of any exhibits introduced through or relied upon by the expert witnesses. Filing of expert testimony shall occur no later than seven (7) days prior to the appeal hearing.

2.5.3 Appeal Hearing. The hearing shall consist of the following:

- A. Opening Statements.
- B. Appellant's Case. An appellant's case at the hearing shall be limited to the presentation of lay testimony, to cross-examination by District of any witness whose

EXHIBIT D

testimony has been offered by appellant, including expert witnesses whose testimony has been offered in writing pursuant to this rule, and to appellant's redirect examination of any witness from whom cross-examination testimony is taken.

C. District's Case. The District's case at the hearing shall be limited to the presentation of lay testimony, to cross-examination by appellant of any witness whose testimony has been offered by District, including expert witnesses whose testimony has been offered in writing, and to District's redirect of any witness from which cross-examination testimony is taken.

D. Closing Argument.

E. Decision. The Board shall enter a written decision within fourteen (14) days after the close of the record of the appeal hearing.

2.6 If the District grants an adjustment which reduces the rate for the current year, the applicant shall be refunded the amount overpaid. If the District determines that an adjustment should be made which increases the rate due for the current year, the applicant shall receive a supplemental bill that will be due within forty-five (45) days of the date the supplemental bill is issued. An appellant seeking a rate adjustment shall be notified in writing of the District's decision.

2.7 The final written decision of the Board of Supervisors may be appealed to the Whatcom County Superior Court no later than twenty-one (21) days of the date of the Board's written decision. The party appealing to Superior Court shall bear the cost of production of the record of hearing before the Board for filing with the Court, such cost to be recoverable in the determination of the Superior Court that the party appealing to the Superior Court substantially prevailed in the appeal.

SECTION 3. DISTRICT MANAGER AUTHORITY. The District's District Manager is authorized prior to or after the hearing under Section 2.5, to settle claims and resolve disputes over rates, rate category, or classification, and other matters applicable to parcels that are subject to appeal. The District Manager shall report such settlements to the Board at a regularly scheduled meeting.

SECTION 4. EFFECTIVE DATE. This resolution shall become effective immediately upon its adoption.

ADOPTED BY THE BOARD OF SUPERVISORS of the Whatcom Conservation District, Washington, at a regular open public meeting thereof, and effective this 25th day of July, 2022.



Heather Christianson, Chair

EXHIBIT D

CERTIFICATE

I, Valeri Wade, Secretary of the Board of Supervisors, Whatcom County, Washington, do hereby certify that the foregoing resolution is a true and correct copy of Resolution No. 22-03 of such Board, duly adopted at a regular meeting thereof held on the 25th day of July, 2022, by the members of such Board in attendance at such meeting and attested by myself in authentication of such adoption.



Valeri Wade, Secretary/Auditor