

WHATCOM COUNTY COUNCIL OFFICE  
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CLERK OF THE COUNCIL  
Cathy Halka, AICP, CMC

## MEMORANDUM

TO: County Council  
FROM: Council Staff  
DATE: June 15, 2026  
RE: Hearing Examiner procurement process

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The Council Office is required to undergo a procurement process for a new hearing examiner services contract that will begin on January 1, 2027. The role of hearing examiner is provided for in [RCW 36.70.970](#) to allow an alternative authority to make decisions on land use applications and administrative appeals in place of a council or planning commission.

The scope of Whatcom County's hearing examiner services contract is attached.

An RFP for this contract will be issued on June 17, with responses due by July 28. A review of submissions and potential interviews will be conducted in early August.

Whatcom Law Group was the sole respondent to the previous RFP ([#23-83](#)). A two-year contract ([#202312007](#)) covering January 1, 2024 to December 31, 2025 was approved by Council on Oct. 11, 2023 and amended ([#202312007-1](#)) on February 16, 2024 to add additional appeals duties after the County Appeals Board was eliminated. A one-year contract amendment ([#202312007-2](#)), covering January 1 to December 31, 2026, was approved by Council on September 9, 2025.

Staff is requesting that Council select one to three councilmembers to participate in the selection process.

## SCOPE OF SERVICES – HEARING EXAMINER

### **A) Hearing Examiner Requirements as contained in several sections of the Whatcom County Code**

See a listing of included Code sections below.

### **B) Frequency of Hearings**

The Contractor must be prepared to schedule a minimum of 12 hearing days during any twelve-month period during which a contract will be in force. The number of cases scheduled per hearing will vary. On average, approximately 27 decisions per year may be rendered. Whatcom County prefers a regular monthly hearing date be established as mutually agreed upon.

### **C) Submission of Decisions**

Decisions must be submitted within the timeframe as provided by law. It will be the responsibility of the contractor to provide decisions to the County in a format as may be mutually agreed upon. All content and materials that will be posted to the county website must be checked for accessibility and meet WCAG 2.1 level AA standards.

### **D) Term of Contract**

The County anticipates offering a two-year contract with an option for an additional annual renewal for up to three total contract years. The contract term will begin on January 1, 2027.

### **E) Decisions**

The following is a list of final decisions made by the Hearing Examiner, as per [WCC 2.11.210](#):

1. Appeals from any order, permits, decisions or final determinations made by an administrative official or committee in the administration of this title, WCC Title 15, except for building and fire code requirements, WCC Title 16, Environment, WCC Title 17, Flood Damage Prevention, WCC Title 20, Zoning, WCC Title 21, Land Division Regulations, WCC Title 22, Project Permit Procedures, WCC Title 23, Shoreline Management Program, or WCC Title 24, Health Code.
2. Appeals from a decision of the administrator of the shoreline management program.
3. Applications for zoning ordinance conditional use permits.
4. Applications for variances from the terms of the zoning ordinance.
5. Applications for shoreline management substantial development permits not accompanied by a major project permit when an open record hearing is required.
6. Applications for variances from the terms of the Whatcom County shoreline management program.
7. Applications for variances from the terms of Chapter 16.16 WCC, Critical Areas.
8. Applications for reasonable use permits under the terms of Chapter 16.16 WCC when an open record hearing is required.
9. Applications for shoreline management program conditional use permits.
10. Applications for flood damage prevention variances.
11. Appeals from SEPA determinations of significance, determinations of nonsignificance, and mitigated determinations of nonsignificance.
12. Preliminary subdivisions and subdivision variances.
13. Preliminary binding site plan proposals.
14. Revocation proceedings involving previously approved zoning conditional use permits, shoreline management substantial project permits and shoreline conditional use permits.
15. Applications to continue operations of nonconforming adult businesses pursuant to WCC 20.83.015.
16. Appeals of decisions relating to water service issues under Section 9.2 of the Coordinated Water System Plan.

17. Appeals from any orders, requirements, permits, decisions, or determinations made by an administrative official relating to essential public facilities. (Ord. 2018-032 § 1 (Exh. B)).
18. In 2024, the Hearing Examiner assumed the role of the former Board of Appeals and now also hears and decides appeals on decisions or building code interpretations made by the Building Official or Fire Marshal.

Additional tasks may include prehearing conferences, continued hearings, and supplemental hearings.

**F) Duties**

Duties of the Whatcom County Hearing Examiner per Whatcom County Code (full text for each referenced section available at <https://ecode360.com/48035182>) include but are not limited to:

<b>WCC</b>	<b>TITLE OF CHAPTER</b>
<b>TITLE 2</b>	<b>ADMINISTRATION AND PERSONNEL</b>
2.11	Hearing Examiner
2.100	Objection Process for Lake Management District Rates and Charges or Special Assessments
<b>TITLE 8</b>	<b>HEALTH AND SAFETY</b>
8.15.090	Solid Waste Disposal Sites – Suspension of Revocation
8.32.030	Notice of a hearing
8.32.040	Determinations and Burdens of Proof
8.32.050	Abatement
8.32.060	Abatement by owner
8.32.070	Costs of abatement
8.34.020	Airport Disclosure – Definitions
<b>TITLE 9</b>	<b>PUBLIC PEACE, MORALS, AND WELFARE</b>
9.52	Erotic Dance Studios
<b>TITLE 14</b>	<b>USE OF NATURAL RESOURCES</b>
14.02.050	Right to Farm – Agreement to Refrain from Legal Action
<b>TITLE 16</b>	<b>ENVIRONMENT</b>
16.05.157	Denial without environmental impact statement (EIS)
16.08.170	State Environmental Policy Act (SEPA) – Appeals
16.16.240	Critical Areas – Technical Administrator and Hearing Examiner Authority
16.16.265	Critical areas protective measures
16.16.270	Reasonable use exceptions
16.16.285	Penalties and enforcement
16.32.080	Establishing Regulations for Fertilizer Application on Residential Lawns in Lake Whatcom and Lake Samish Watersheds – Penalties and Enforcement
16.36.060	Illicit Discharge Detection and Elimination Program – Penalties and Enforcement
16.40.060	National Pollutant Discharge Elimination System (NPDES) – Penalties and Enforcement
<b>TITLE 17</b>	<b>FLOOD DAMAGE PREVENTION</b>
17.12.040	Administration: Variances – Process
<b>TITLE 20</b>	<b>ZONING</b>
<b>TITLE 21</b>	<b>LAND DIVISION REGULATIONS</b>
21.02	Variances, Appeals, and Amendments
21.03	Exempt Land Divisions and Boundary Line Adjustments
21.04	Short Subdivisions
21.05	Preliminary Long Subdivisions
21.07	Preliminary Binding Site Plans
21.08	General and specific binding site plans
<b>TITLE 22</b>	<b>LAND USE AND DEVELOPMENT PROCEDURES</b>

22.05	Project permit procedures
<b>TITLE 23</b>	<b>SHORELINE MANAGEMENT PROGRAM</b>
23.60	Shoreline Permits and Exemptions
23.70	Administration
<b>TITLE 100</b>	<b>FLOOD CONTROL ZONE DISTRICTS</b>
100.07	Birch Bay Watershed and Aquatic Resources Management District Funding Mechanism