

TO ALL COUNCILMEMBERS:

SUBSTITUTE VERSION

For

February 12, 2019

pages 349 - 393

PUBLIC HEARING #1

1. Ordinance adopting various minor amendments to Whatcom County Code Titles 20 (Zoning), 21 (Land Division Regulations), and 22 (Land Use and Development Procedures), making corrections, updates, and clarifications. (AB2019-018) **Pages 335 - 420**

EXHIBIT A

*DISTRIBUTED: February 8, 2019
TIME: 11:00 a.m.*

Exhibit A: Proposed Code Amendments

Code Scrub 2018

(Editor's note: **Yellow highlight** indicates Planning Commission amendments. Ellipses (...) indicate that sections of the code that are not being amended are not shown.)

Chapter 20.38 Agriculture Protection Overlay

1. Clarify 20.38.060(7), as the language is confusing. The intent is to have greater setbacks for cluster subdivisions when adjacent to agricultural land so as to minimize nuisance complaints.

20.38.060 Development and use standards-checklist.

- (7) Any inhabitable structure within the cluster subdivision ~~which will be used for human habitation~~ shall be set back a minimum of 100 feet, and any accessory or other non-inhabitable structures shall be set back at least 30 feet, from the property line of any parcel ~~or portion thereof which that is an~~ APO reserve tract or designated or ~~used~~ taxed for agricultural purposes. ~~No structures shall be constructed within 30 feet of exterior, side and rear property lines, and no structure shall be constructed within 30 feet of an agricultural use; and~~

Chapter 20.40 Agriculture (AG) District

2. Revise 20.40.254(5)(a) & (b) to correspond to the minimum parcel sizes listed in Table 20.40.251. Pursuant to the table, one has to maintain a minimum lot size of "X acres," but the text inconsistently says "greater than X acres."

20.40.250 Division or modification of parcels.

.254 Separation of the Farmstead Parcel Criteria.

...

- (5) Division or Boundary Line Adjustment for Agricultural Purposes Only. Lots smaller than the minimum lot size of WCC 20.40.251 may be created through land division or rearranged through a boundary line adjustment provided the following:
 - (a) The parent parcel does not contain an existing residence, or said existing residence will remain on a parcel ~~larger than 40 acres~~ or larger in size; and
 - (b) The parcel created is ~~greater than 10 acres~~ or larger or is appended to another parcel; and

...

3. Add maximum density language to Chapter 20.40 similar to other zones. All other zoning chapters specify what the maximum density for that zone is. Though a maximum density of a dwelling unit/acre is implied by the 40 ac minimum parcel size, it's not explicitly stated.

20.40.550 Maximum Density.

The maximum density in the Agricultural District shall be 1 dwelling unit per 40 acres.

Chapter 20.97 Definitions

4. Currently there are four definitions of hazard trees in various sections of the code. Staff had proposed to replace the definition of "Hazard Tree" with one recommended by our Prosecuting Attorney and delete the others so that they are all consistent.

The Planning Commission, though, found that definition was wanting in terms of grammar and clarity and amended it to try to fix it (see below).

However, upon further reflection, staff still found it ambiguous, especially in conjunction with the amendments proposed in Issue 5, below. Staff now proposes a new definition.

16.16.900 Definitions.

~~"Hazard tree" means any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which because of its location is at risk of damaging permanent physical improvements to property or causing personal injury.~~

20.97.436.2 Tree, hazard.

~~"Hazard tree" means a tree, either live or dead, having an incurable disease, infestation, defects or stress, singly or combined, in the roots, trunk or primary limbs, which predispose the tree to mechanical failure in whole or in part, and which is located in such a manner that failure may result in property damage or personal injury.~~

20.97.171.2 Hazard tree.

~~"Hazard tree" means any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which because of its location is at risk of damaging permanent physical improvements to property or causing personal injury.~~

23.110.080 H definitions.

~~2. "Hazard tree" means any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which because of its location is at risk of damaging permanent physical improvements to property or causing personal injury.~~

20.97.171.2 and 16.16.900 Hazard Tree

Original staff proposal: "Hazard Tree" means a tree which poses an imminent failure, poses a likelihood of striking the target, and has a significant consequence of tree failure as determined through a tree risk evaluation form provided by Whatcom. A tree which constitutes an airport hazard is considered a

hazard tree.” “Imminent” in this case means failure has started or is most likely to occur in the near future, even if there is not significant wind or increased load. This is a rare occurrence to encounter, and it may require immediate action to protect people from harm.

Planning Commission rewrite: “Hazard Tree” means a tree that poses an imminent failure and poses a likelihood of causing damage to persons or property, has a significant consequence of tree failure (as determined through a tree risk assessment form provided by Whatcom County). A tree that constitutes an airport hazard is considered a hazard tree.” “Imminent” in this case means failure has started or is most likely to occur in the near future, even if there is no significant wind or increased load.

Final staff proposal: “Hazard Tree” means a tree whose risk evaluation, as determined through a Whatcom County approved tree risk assessment method, is high. Risk evaluation is the combined measurement of: tree failure identification, probability of failure, potential damage to permanent physical improvements to property causing personal injury, and consequences. A tree that constitutes an airport hazard is considered a hazard tree. A hazard tree whose failure is imminent and consequences of damage to permanent physical improvements to property causing personal injury is significant is considered an emergency. “Imminent” in this instance means failure has started or is most likely to occur in the near future, even if there is no significant wind or increased load. Imminent may be determined by a qualified consultant (defined in WCC 16.16.900) or when mutually agreed upon by a land owner and Whatcom County.

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5. Amend the hazard tree exemption in 20.51.430(1)(a) and 20.71.354(1)(a). Though they both say the removal of hazard trees is exempt from obtaining a tree removal permit, they also say you have to meet the requirements of (5), which require obtaining a tree removal permit.

Staff had originally proposed, and the Planning Commission recommended approval of (with a few amendments for clarity’s sake), the first versions in the following sections. However, upon further reflection, staff still found it ambiguous, especially in conjunction with the amendments proposed in Issue 4, above. Staff now proposed additional amendments, show in the second versions in the following sections.

Chapter 20.51 Lake Whatcom Watershed Overlay District

Original staff proposal, as amended and approved by the Planning Commission:

20.51.430 Tree removal not associated with development activity.

- (1) Permit Required for Removal of Trees. No person, directly or indirectly, shall remove any significant tree(s) on any property within the Lake Whatcom watershed, or any tree(s) in the public right-of-way, without first obtaining a tree removal permit as provided in this section, unless the activity is exempted below:

- (a) When Whatcom County has approved an ISA Basic Tree Risk Assessment Form, Removal of any hazard trees or as necessary to remedy an immediate threat to person or property, pursuant to the requirements in subsection (5) of this section;
- (b) Pruning and maintenance of trees of up to 25 percent of the foliage.

...

(5) ~~Removal of Hazard Trees~~ Removal. Any property owner seeking to remove any number of significant trees that are a hazard shall first obtain approval of an ISA Basic Tree Risk Assessment Form or a tree removal permit and meet the requirements of this subsection.

(a) ~~Tree Risk Assessment Evaluation Form~~. When the hazard is obvious, submit only the ISA Basic Tree Risk Assessment Form.

(b) Tree Risk Assessment. If the hazard condition is not obvious, a tree risk assessment prepared by a qualified professional explaining how the tree(s) meet the definition of a hazard tree is required. ~~Removal of hazard trees does not count toward the tree removal limit if the hazard is supported by such a report and approved by the county.~~

(b) Trees in Critical Areas or Critical Area Buffers. For hazard trees in critical areas or their buffers, tree removal shall be in accordance with the requirements of Chapter 16.16 WCC.

Final staff proposal:

20.51.430 Tree removal not associated with development activity.

(1) Permit Required for Removal of Trees. No person, directly or indirectly, shall remove any significant tree(s) on any property within the Lake Whatcom watershed, or any tree(s) in the public right-of-way, without first obtaining a tree removal permit as provided in this section, unless the activity is exempted below; provided the tree is not located within the shoreline jurisdiction or within a critical area or a critical area buffer:

(a) ~~Removal of any hazard trees or as necessary to remedy an immediate threat to person or property, pursuant to the requirements in subsection (5) of this section; considered an emergency within the definition of hazard tree in WCC 20.97. Within 30 days after the emergency is abated the land owner shall submit photo documentation with a form provided by Whatcom County.~~

(b) Pruning and maintenance of trees of up to 25 percent of the foliage.

...

(5) Removal of Hazard Trees. Any property owner seeking to remove any number of significant trees not considered an emergency pursuant to subsection (1) must submit a tree risk assessment using an approved Whatcom County method prepared by a qualified professional; provided, that removal of hazard trees in critical areas or their buffers shall be in accordance with the requirements of Chapter 16.16 WCC. ~~that are a hazard shall first obtain approval of a tree removal permit and meet the requirements of this subsection.~~

(a) ~~Tree Risk Assessment~~. If the hazard condition is not obvious, a tree risk assessment prepared by a qualified professional explaining how the tree(s) meet the definition of a hazard tree is required.

~~Removal of hazard trees does not count toward the tree removal limit if the hazard is supported by such a report and approved by the county.~~

- ~~(b) Trees in Critical Areas or Critical Area Buffers. For hazard trees in critical areas or their buffers, tree removal shall be in accordance with the requirements of Chapter 16.16 WCC.~~

Chapter 20.71 Water Resource Protection Overlay District

Original staff proposal, as amended by the Planning Commission:

20.71.354 Tree removal not associated with development activity.

- (1) Permit Required for Removal of Trees. No person, directly or indirectly, shall remove any significant tree(s) on any property within the Lake Padden and Lake Samish watersheds, or any tree(s) in the public right-of-way, without first obtaining a tree removal permit as provided in this section, unless the activity is exempted below:
- (a) ~~When Whatcom County has approved an ISA Basic Tree Risk Assessment Form, Removal of any hazard tree(s) or as necessary to remedy an immediate threat to person or property as~~ **necessary to remedy an imminent threat to person or property**, pursuant to the requirements in subsection (5) of this section;
- (b) Pruning and maintenance of trees of up to 25 percent of the foliage.

...

- (5) ~~Removal of Hazard Trees Removal.~~ Any property owner seeking to remove any number of significant trees that are a hazard shall first obtain approval of an ISA Basic Tree Risk Assessment Form or a tree removal permit and meet the requirements of this subsection.
- (a) ~~Tree Risk AssessmentEvaluation Form.~~ **Tree Risk Assessment Form.** When the hazard is obvious, submit only the ISA Basic Tree Risk Assessment Form.
- ~~(a) Tree Risk Assessment. If the hazard condition is not obvious, a tree risk assessment prepared by a qualified professional explaining how the tree(s) meet the definition of a hazard tree is required. Removal of hazard trees does not count toward the tree removal limit if the hazard is supported by such a report and approved by the county.~~
- ~~(b) Trees in Critical Areas or Critical Area Buffers. For hazard trees in critical areas or their buffers, tree removal shall be in accordance with the requirements of Chapter 16.16 WCC.~~
- ~~(b)(c) Trees in Critical Areas or Critical Area Buffers. For hazard trees in critical areas or their buffers, tree removal shall be in accordance with the requirements of Chapter 16.16 WCC.~~

Final staff proposal:

20.71.354 Tree removal not associated with development activity.

- (1) Permit Required for Removal of Trees. No person, directly or indirectly, shall remove any significant tree(s) on any property within the Lake Padden and Lake Samish watersheds, or any tree(s) in the public right-of-way, without first obtaining a tree removal permit as provided in this section, unless

the activity is exempted below; provided the tree is not located within the shoreline jurisdiction or within a critical area or a critical area buffer:

(a) Removal of any hazard trees considered an emergency within the definition of hazard tree in WCC 20.97. Within 30 days after the emergency is abated the land owner shall submit photo documentation with a form provided by Whatcom County. ~~or as necessary to remedy an immediate threat to person or property, pursuant to the requirements in subsection (5) of this section;~~

(b) Pruning and maintenance of trees of up to 25 percent of the foliage.

...

(5) Removal of Hazard Trees. Any property owner seeking to remove any number of significant trees not considered an emergency pursuant to subsection (1) above must submit a tree risk assessment using an approved Whatcom County method prepared by a qualified professional; provided that removal of hazard trees in critical areas or their buffers shall be in accordance with the requirements of Chapter 16.16 WCC. ~~that are a hazard shall first obtain approval of a tree removal permit and meet the requirements of this subsection.~~

~~(a) Tree Risk Assessment. If the hazard condition is not obvious, a tree risk assessment prepared by a qualified professional explaining how the tree(s) meet the definition of a hazard tree is required. Removal of hazard trees does not count toward the tree removal limit if the hazard is supported by such a report and approved by the county.~~

~~(b) Trees in Critical Areas or Critical Area Buffers. For hazard trees in critical areas or their buffers, tree removal shall be in accordance with the requirements of Chapter 16.16 WCC.~~

Chapter 20.62 General Commercial (GC) District

6. Amend the heading of 20.62.300, as the text describes a maximum, not a minimum, density.

20.62.300 ~~Maximum~~ Minimum density.

.301 Hotels and motels shall not exceed a floor area ratio of .60.

Chapter 20.66 Light Impact Industrial (LII) District

7. Amend 20.66.550 to remove the increased setback from "principal arterials." Whatcom County doesn't have a "principal arterial" classification.

20.66.550 Buffer area.

.551 When a parcel situated within this district adjoins an Urban Residential, Urban Residential Medium Density, Urban Residential-Mixed, Rural, or Residential Rural District, ~~or county or state roads designated as or proposed for improvements to principal arterial status,~~ setbacks shall be increased to 50 feet. A minimum of 25 feet shall be landscaped consistent with the requirements of WCC 20.80.345.

8. In 20.68.552(5), delete the reference to the Cherry Point/Ferndale Subarea Plan, as it is slated for repeal. The intent of this policy is already included within the regulation of .552.

“Policy 1.05: To attain compatibility with surrounding nonindustrial land use designations and to minimize heavy industrial off-site impacts, it is the policy of Whatcom County to require industrial users to provide a buffer which is located within the designated HEAVY IMPACT INDUSTRIAL area and which adjoins said nonindustrial land use designations.

As a means of protecting the existing and planned residential uses in the Point Whitehorn area from detrimental environmental and visual impacts generated from the Heavy Impact Industrial area, a 660-foot buffer strip shall be established. Said buffer shall be situated adjacent to and south of Grandview Road between Jackson Road and Koehn Road; adjacent to and east of Koehn Road between Grandview Road and Brown Road; and adjacent to the east of the eastern property line of tax lots 2.27 and 2.28 between Brown Road and the shoreline. This buffer strip may be utilized for security or protective uses, parking, or the open space requirements of the Heavy Impact Industrial zone district. Land within the buffer strip which is not required for the above uses and is currently covered with natural vegetative species shall not be cleared, logged, or altered in any manner which would reduce the natural screening characteristics of said buffer.”

Chapter 20.68 Heavy Impact Industrial (HII) District

20.68.550 Buffer area.

.552 To implement the buffer requirements of this district, minimum setbacks for heavy industrial buildings and accessory structures shall be established consistent with the following options:

- (1) If a planting screen is not provided by the industrial user and no natural vegetative screening exists, the minimum setback(s) shall be 660 feet, as measured from the edge of the district boundary. The setback area may be used for security roads, parking, or open space.
- (2) If natural sight-obscuring and dense vegetation exists, the minimum setback(s) shall be 250 feet, as measured from the district boundary; provided, that a minimum width of 50 feet of natural vegetation is retained. The remainder of the setback(s) may be used for security roads, parking, or open space.
- (3) If a 50-foot buffer planting screen is established, pursuant to WCC 20.80.345, the minimum setback(s) shall conform to the setback requirements of WCC 20.80.200, as measured from the district boundary. In addition, security roads may be situated within the minimum buffer setback; provided, that the 50-foot-wide buffer planting is established.
- (4) When a parcel situated within this district is located within the Bellingham Urban Growth Area and adjoins an Urban Residential District or residential district within the city limits, setbacks for heavy industrial buildings and/or uses shall be increased to 100 feet and landscaped in accordance with the requirements of WCC 20.80.345.
- (5) In no case shall the setback from the northern and western boundaries of the Cherry Point Heavy Industrial area not contiguous to another industrial zone be less than 660 feet, nor the

natural vegetation removed except for parking and security or protective uses in accordance with Heavy Impact Industrial Policy 1.05 of the Cherry Point Ferndale Subarea Comprehensive Plan.

Chapter 20.80 Supplementary Requirements

9. In 20.80.220(1)(a), clarify the “use of setback areas” language and add “uncovered decks” and “utilities,” as these are typically allowed in a front yard setback.

In 20.80.220(1)(a)(i)(A), updated the name of the adopted fire code.

In 20.80.220(1)(c), clarify that higher appurtenances (up to 6 feet) are allowed in rural areas. We distinguish that these are allowed in rural areas, but not urban areas, since in urban areas lots are smaller and typically built as suburban neighborhoods where 6-foot fences and hedges in front yards lessen safety (both sight distance and policing).

Additionally in 20.80.220(1)(c), delete the vision clearance requirements, as this is just a repeat of what’s found in WCC 20.80.210(3).

20.80.220 Use of setback areas

All setback measurements are minimum requirements. All front yard and rear yard setback areas shall be open from side-to-side of the lot except as otherwise provided by the following:

(1) Front Yards.

- (a) Appurtenances, including but not limited to: Uncovered patios, and decks less than 30 inches in height; driveways, and walkways; vegetation, pools, and other recreation equipment; utilities, septic systems, and propane tanks with fuel capacities up to 500 gallons; and fences, and walls, and vegetative hedges up to four feet in height, and propane tanks with fuel capacities up to 500 gallons may be placed in this front yard setback area subject to the limitations of WCC 20.80.210(3) regarding (v) Vision eClearance); and provided, that the following applies:

- (i) The location of propane tanks with fuel capacities up to 500 gallons is restricted to the rear 50 percent of front yard setbacks. All such propane tanks shall be:
- (A) Inspected and approved by the Whatcom County fire marshal for compliance with Article 82 of the most currently adopted Uniform International Fire Code and, when required by the Fire Marshal, isolated from other uses by a noncombustible wall or fence; and
 - (B) Encourage sScreening by a fence or with shrub vegetation planted to a minimum height of six inches above the top surface of the propane tank is encouraged; and
 - (C) Located so as not to interfere or obstruct sight distances for vehicular traffic.

...

- (c) Outside of Urban Growth Areas fFences, walls, or and vegetative hedges greater than four feet in height up to a maximum of six feet in height may be located within the front yard setback

area subject to the limitations of WCC 20.80.210(3) (Vision Clearance), regarding vision clearance and provided both of the following apply:

- ii. ~~The additional height does not obstruct or impair visual corridors of surrounding properties and sight distances of vehicular traffic;~~
 - iii. ~~The additional height is determined by the administrator to be necessary in order to provide security and/or privacy to the particular use activity by reason of one or more of the following:~~
 - A. ~~The property's immediate location next to public access areas; or~~
 - B. ~~A determination by the administrator that the property and/or its facilities and amenities are both attractive to the general public, and intended for the exclusive use of its residents and/or patrons; or~~
 - C. ~~A determination by the administrator that the additional height is needed to protect the public health, safety and general welfare.~~
- (3) Side yards must be kept open; provided, that uncovered patios, and decks less than 30 inches in height; driveways, walkways, and parking areas; vegetation, pools and other recreational equipment; parking areas, recreational equipment, and fences, walls, and vegetative hedges up to seven feet in height may be placed in the side yard.

10. In 20.83.050, clarify that nonconforming structures, while they can be rebuilt, must be rebuilt on one's own property and cannot cross onto someone else's property (even if it's been there awhile).

20.83.050 Damage or destruction – Rebuilding permitted.

If a nonconforming use or structure physical feature of a building or group of buildings on one site is damaged or destroyed by any means, that use or structure shall may be permitted to be rebuilt equal to the same square footage of damaged or destroyed building structure(s), and for the same use and location on the site; except, no portions of said rebuilt structure may extend onto property not belonging to the owner.

11. Amend 20.80.230(2) so that reduced front yard setbacks can be applied wherever necessary to protect critical areas, not just shorelines.

20.80.230 Measurement of setbacks.

- (2) ~~Shoreline Areas. In situations where the shoreline setback(s) imposed by the Shoreline Management Program exceed the standard rear and/or side yard setbacks imposed by this chapter, the front yard setback(s) shall apply to the waterfront side(s) of the lot or tract and the rear yard setback shall apply to the street side of the lot or tract; provided, however, the zoning administrator may waive the setback reversal requirement of this section upon request of the property owner if he finds that the public interest will not be harmed; provided further, that the minimum setback on the street side of parcels abutting collector and arterial roadways shall be 20 feet.~~

(2) Reduction of setbacks. In situations where a property is so encumbered by shoreline setbacks, critical areas, and/or their buffers that a typical structure for that zone cannot be built due to dimensional requirements, the Zoning Administrator or Hearing Examiner, whichever is the decision maker on the permit, may reduce the standard front yard setback to 20 feet.

12. Delete 20.80.545. The limitations of the first sentence are already covered by WCC 20.80.350 (Parking Areas). The second sentence requires that a driveway be at least 30 feet long (20' for the parking spot, plus the 10' setback), which is greater than the typical front yard setback (20-25'). Driveways on typical suburban development are 20 feet long. The existing language basically makes it illegal to park in a typical driveway.

~~20.80.545 Minimum distance and setbacks.~~

~~No part of any parking area for more than 10 vehicles shall be closer than 20 feet to any dwelling unit, school, hospital, or other institution for human care located on an adjoining lot, unless separated by an acceptably designed screen. Parking areas for one-family and two-family dwellings if located within the required front yard setback areas shall have a setback of at least 10 feet from the road right-of-way. In no case shall any part of a parking area be closer than four feet to any established street or alley right-of-way.~~

13. In 20.80.650, update the name of agency responsible for establishing minimum permissible emission levels (it was renamed many years ago).

20.80.650 Air quality.

No development, including traffic generated directly by it, should generate air pollution exceeding the minimum permissible emission levels established by the Northwest Clean Air Pollution Control Agency (NWCAPA) or the Environmental Protection Agency.

14. Delete WCC 20.80.670, as it is covered in the Shoreline Management Program (WCC 23.100.090). This is already covered by WCC 16.16.720.

~~20.80.670 Docks.~~

~~All dock development shall conform to the following requirements:~~

- ~~(1) The dock development shall conform to all applicable local, state and federal requirements including the Whatcom County Shoreline Management Program. In particular, dock design and construction shall comply with the requirements of WCC 23.100.090.~~
- ~~(2) For all fresh water areas, all new posts or pilings shall be untreated in order to avoid adverse impact on water quality.~~
- ~~(3) The dock shall be painted, marked with reflectors, or otherwise identified so as to prevent unnecessary hazardous conditions for water surface uses during day or night.~~

- ~~(4) Docks for noncommercial use or any watercraft moored thereto shall not be used for a residence.~~
- ~~(5) Storage on a dock is prohibited. However, the requirement does not apply where a specific design or structure has been approved by the zoning administrator after demonstrating that adequate preventions are utilized to maintain safety and water quality.~~
- ~~(6) Any exterior lighting shall be directed or shielded so as not to cause annoying glare to neighboring properties, or to road or water traffic.~~
- ~~(7) Docks shall only be constructed within the property owned by the applicant or where the applicant has obtained the appropriate lease arrangements for the state of Washington or where appropriate.~~

Chapter 20.85 Planned Unit Developments (PUD)

15. Amend 20.85.101 to reference the correct building and fire codes.

20.85.100 Design and development standards.

20.85.101 Conformance.

All uses and development shall conform to all relevant requirements and standards of:

- (2) The Uniform International Building and Fire Codes;

16. Add a new section 20.85.119 to Chapter 20.85. WCC 16.16.260(E) already has this allowance, but this insertion will help point readers to it.

20.85.119 Critical Areas – Alternative Mitigation Plans.

The Hearing Examiner may recommend and the County Council may approve alternative mitigation plans for planned unit developments in accordance with WCC 16.16.261, which may be used to satisfy the requirements of WCC Chapter 16.16 and relief from the specific standards and requirements thereof.

Chapter 20.88 Major Project Permits

17. Amend 20.88.275. If someone applies for a Planned Unit Development, we do not make them obtain a Master Project Permit. The same should be true of applying for a developer's agreement, as they, too, go before the Council.

20.88.200 Procedure

.275 Major project permits: Where an applicant has applied for a planned unit development or a development agreement, that project shall be exempt from the requirement to obtain a major project permit.

18. In 20.97, amend the definition of “party of record” and add a definition of “standing.” In other sections of the code, amend so that one must be a person with “standing” in order to file an appeal.

According to the Prosecuting Attorney, our current definition of “Party of Record” is a broad, somewhat confusing status for people who are in the record or contribute to the record. This status should only mean that you get notice of hearings. This does not mean that you automatically have standing. A person could be a Party of Record and have standing, but they don’t have standing just because they are a party of record. “Standing” should be the operative term that allows people to appeal. The proposed definition of “standing” is that found in RCW 36.70C.060 (Judicial Review of Land Use Decisions)

Chapter 20.97 Definitions

20.97.293 Party of record.

~~“Party of record” means any person, agency or entity entitled to receive notice of application or decision under this title, or any person, agency or entity providing written comments on any application received under this title or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail or email of the following:~~

- ~~1. The applicant and any appellant;~~
- ~~2. The property owner as identified by Whatcom County Assessor’s records;~~
- ~~3. Any person, County department, and/or public agency who individually submitted written comments or testified at the open record hearing on the merits of the case (excluding persons who have only signed petitions or mechanically produced form letters); and;~~
- ~~4. Any person, County department, and/or public agency who specifically request notice of decision by entering their name and mailing address on a register provided for such purpose at the open record hearing.~~

~~A party of record does not include a person who has only signed a petition or mechanically produced form letters. A party of record to an application/appeal shall remain such through subsequent county proceedings involving the same application/appeal. The county may cease mailing material to any party of record whose mail is returned by the postal service as undeliverable.~~

~~A Party of Record does not have standing unless they meet the standing criteria. Persons who do not qualify as a party of record may still receive notice of a decision or recommendation by submitting their names and addresses to the Hearing Examiner with a request for such notice.~~

20.97.429.05 Standing.

~~“Standing” is the status required for a person, agency, or other entity to bring an action before the Hearing Examiner. A person has standing per RCW 36.70C.060 if they are:~~

- ~~1. The applicant and the owner of property to which the land use decision is directed; or~~
- ~~2. Another person, County department, and/or public agency aggrieved or adversely affected by the land use decision, or who would be aggrieved or adversely affected by a reversal or~~

modification of the land use decision. A person is aggrieved or adversely affected within the meaning of this section only when all of the following conditions are present:

- (a) The land use decision has prejudiced or is likely to prejudice that person;
- (b) That person's asserted interests are among those that the local jurisdiction was required to consider when it made the land use decision;
- (c) A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision; and
- (d) The petitioner has exhausted his or her administrative remedies to the extent required by law.

Chapter 21.02 Variances, Appeals and Amendments

21.02.030 Appeals.

- (1) Any ~~person with standing~~¹ ~~party of record~~ may appeal any order, final permit decision, final administrative determination including pre-approval or preliminary approval in the administration or enforcement of this title. The hearing examiner shall have the authority to hear and decide appeals pursuant to WCC 22.05.160.

Chapter 22.05 Project Permit Procedures

22.05.110 Final decisions.

- (1) The director or designee's final decision on all Type I or II applications shall be in the form of a written determination or permit. The determination or permit may be granted subject to conditions, modifications, or restrictions that are necessary to comply with all applicable codes.
- (2) The hearing examiner's final decision on all Type III applications per WCC 22.05.020 or appeals per WCC 22.05.160(1) shall either grant or deny the application or appeal.
 - (a) The hearing examiner may grant Type III applications subject to conditions, modifications or restrictions that the hearing examiner finds are necessary to make the application compatible with its environment, carry out the objectives and goals of the comprehensive plan, statutes, ordinances and regulations as well as other official policies and objectives of Whatcom County.
 - (b) Performance bonds or other security, acceptable to the prosecuting attorney, may be required to ensure compliance with the conditions, modifications and restrictions.
 - (c) The hearing examiner shall render a final decision within 14 calendar days following the conclusion of all testimony and hearings. Each final decision of the hearing examiner shall be in writing and shall include findings and conclusions based on the record to support the decision.
 - (d) No final decision of the hearing examiner shall be subject to administrative or quasi-judicial review, except as provided herein.
 - (e) The applicant, any ~~party of record~~ person with standing, or any county department may appeal any final decision of the hearing examiner to superior court, except as otherwise specified in WCC 22.05.020.

¹ Editor's Note: See proposed definition of "standing," in the preceding section.

Chapter 22.20 Land Use and Development Code Interpretation Procedures

22.20.060 Appeals.

Any person with standing party of record may file an appeal of a formal code interpretation. The appeal shall follow all rules and procedures for appeals to the Hearing Examiner as set forth in WCC 22.05.160.

Chapter 20.89 Density Transfer Procedure

19. Delete 20.86.051(2) and (3), which require Transfer of Development Rights (TDRs) for certain rezones and UGA expansions. Similar provisions in WCC 2.160.080 and WCC 20.90.064 were repealed when Title 22 was adopted in June 2018 (Ordinance 2018-032). Additionally, the Whatcom County TDR/PDR Multi-Stakeholder Work Group Final Report (October 3, 2018) states:

“A Civil Deputy from the County Prosecuting Attorney’s Office stated that, in his opinion, the County cannot require TDRs for UGA expansions or rezones under RCW 82.02.020.

The TDR/PDR Work Group recommends that the County consider deleting WCC 20.89.051(2) and (3), which state that certain rezone requests and UGA expansions are required to transfer development rights from designated TDR sending areas” (pp. 55, see also pp. 50 and 51).

Therefore, deleting these code provisions should be considered.

20.89.050 Receiving areas.

.051 Designation of Receiving Areas. In addition to those areas which qualify as receiving areas according to the official Whatcom County zoning map, the county council may approve additional areas as receiving areas.

(1) Designated Receiving Areas. Such additional areas may be approved through the process established for amendments to the official Whatcom County zoning map and pursuant to the procedures and requirements in Chapter 22.10 WCC, Amendments.

~~(2) Rezones.~~

~~(a) Rezone requests for an area or parcel located within a designated urban growth area, that have been submitted pursuant to Chapter 22.10 WCC, shall be required to transfer development from a designated TDR sending area to obtain the requested density as a condition of approval. In order to obtain the requested density, one development right shall be transferred for every three additional dwelling units obtained through rezones within a designated urban growth area. The county council may modify this requirement if a development agreement has been entered into that specifies the elements of development within the rezone area. The development agreement should include, but not be limited to, affordable housing, density, allowed uses, bulk and setback standards, open space, parks, landscaping, buffers, critical areas, transportation and circulation, streetscapes, design standards and mitigation measures.~~

~~(b) Exceptions from requiring TDRs: rezones initiated by a government agency, rezone correction of map errors, establishing one zoning district on a property with two or more zoning districts,~~

zoning revisions that are intended to make a nonconforming use a conforming use or rezones where the public interest is served.

(c) ~~Rezoning initiated by the county, cities or other agencies shall be subject to review by county and city planning staff, and the appropriate administrative bodies, to determine whether the subject site is appropriate for designation as a TDR receiving area.~~

(3) ~~Expansion of Urban Growth Areas and Associated Rezoning. Comprehensive Plan amendment requests, submitted pursuant to Chapter 20.10 WCC (Comprehensive Plan Amendments), that propose the expansion of an urban growth area boundary shall be required to transfer development rights from a designated TDR sending area.~~

(a) ~~In order to obtain the requested urban growth area expansion, one development right shall be transferred for every five acres included into UGA. The county council may modify this requirement if a development agreement has been entered into that specifies the elements of development in the expanded UGA. The development agreement should include, but not be limited to, affordable housing, density, allowed uses, bulk and setback standards, open space, parks, landscaping, buffers, critical areas, transportation and circulation, streetscapes, design standards and mitigation measures.~~

(b) ~~Exceptions from requiring TDRs: urban growth area expansion initiated by a government agency, correction of map errors, properties that are urban in character, or expansions where the public interest is served.~~

(c) ~~Urban growth area expansions initiated by the county, cities or other agencies shall be subject to review by county and city planning staff, and the appropriate administrative bodies, to determine whether the subject site is appropriate for designation as a TDR receiving area.~~

(4)(2) Cities. In cooperation with Whatcom County, cities may designate additional TDR receiving areas within their jurisdictional boundaries for the purposes of receiving transferred densities pursuant to this chapter. Under the above provisions, the designation of additional TDR receiving areas shall be based upon findings that the area/site is appropriate for higher residential densities, is not limited by significant critical areas, and neighboring areas would not be significantly adversely impacted. If such areas are determined to be appropriate for designation as TDR receiving areas/sites, prior to development, parcel owners shall be required to purchase TDRs to attain the maximum gross density requested under the proposed zoning. The purchase of TDRs shall not be required until such time that the requirements of WCC 20.89.060 have been met.

(5)(3) Water Resource Protection Overlay District. Development rights may be transferred within the Water Resource Protection Overlay District for an increase in impervious surface pursuant to Chapter 20.71 WCC.

Chapter 20.97 Definitions

20. In 20.97, add a definition of "director."

20.97.099.4 Director.

"Director" means the Director of Planning and Development Services or his/her designee.

Chapter 22.05 Project Permit Procedures

21. In 22.05.010, add a section that says all definitions are found in 20.97, as there is no definitions section of Title 22.

22.05.010 Purpose and applicability.

(3) The meaning of words used in this chapter shall be as defined in WCC 20.97.

22. In 22.05.160(1):

- Clarify that an appeal application is only valid if it meets the listed requirements and that it must be filed with an application form developed by PDS.
- Clarify that appeal hearings before the Hearing Examiner are “open record public hearings.”
- Change “party of record” to “person with standing” for the reasons provided in Issue 22, above.

22.05.160 Appeals.

- (1) Any person with standing ~~party of record~~ may appeal any order, final permit decision, or final administrative determination made by the director or designee in the administration or enforcement of any chapter to the hearing examiner, who has the authority to hear and decide such appeals per WCC 2.11.210.
- (a) To be valid, aAn appeal shall be filed, on a form provided by the Department, with the Department within 14 calendar days of the issuance of a final permit decision and shall be accompanied by a fee as specified in the Unified Fee Schedule. The written appeal shall include:
- i. The action or decision being appealed and the date it was issued;
 - ii. Facts demonstrating that the person is adversely affected by the decision;
 - iii. A statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;
 - iv. The specific relief requested; and
 - v. Any other information reasonably necessary to make a decision on the appeal.
- (b) The hearing examiner shall schedule an open record public hearing on the appeal to be held within 60 calendar days following the department’s receipt of the application for appeal unless otherwise agreed upon by the county and the appellant.
- (c) A party who fails to appeal within 14 calendar days is barred from appeal, per Chapter 2.11 WCC.
- (d) The business rules of the hearing examiner shall govern appeal procedures. ~~(i)~~The hearing examiner shall have the authority granted in the business rules, and that authority is incorporated herein by reference. See also WCC 2.11.220.
- (2) The applicant, any person with standing ~~party of record~~, or any county department may appeal any final decision of the hearing examiner to superior court or other body as specified by WCC 22.05.020. The appellant shall file a written notice of appeal within 21 calendar days of the final decision of the hearing examiner, as provided in RCW 36.70C.040.
-

23. Amend the definitions (20.97) of “electric vehicle charging station” and “electric vehicle rapid charging station” merging the two into one definition. We can merge the two definitions since the code doesn’t even address “electric vehicle charging stations,” and there isn’t much difference between the two other than how fast it can charge.

Additionally, wherever “electric vehicle rapid charging stations” are allowed as accessory uses, delete the word “rapid” and “accessory to conditionally approved service stations” (or the variants on that clause).

These rules were adopted when electric vehicles were relatively new and no one knew what charging stations would look like or how they would operate. Today, electric vehicle charging stations generally occupy a small number of parking spaces already existing in strip malls or other commercial centers, where people can stop and eat, shop, or run other errands while their car is changing, typically for 30-60 minutes. The equipment is relatively small, about the size of a traditional U.S. Postal drop box.





Chapter 20.97 Definitions

20.97.113 Electric vehicle charging station.

"Electric vehicle charging station" means a ~~private~~ parking space that is served by battery charging station-equipment that has as its primary purpose the transfer of electric energy (~~no more than 220 volts, by~~ conductive or inductive means) to a battery or other energy storage device in an electric vehicle and that meets or exceeds any standards, codes, and regulations set forth by RCW Chapter 19.28 and consistent with rules adopted under RCW 19.27.540. ~~An electric vehicle charging station is allowed accessory to any principal use and meets or exceeds any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.~~

~~20.97.115 Electric vehicle rapid charging station.~~

~~"Electric vehicle rapid charging station" means a type of electric vehicle charging station that allows for a faster recharging of electric vehicle batteries through higher power levels (typically 480 volts) and that meets or exceeds any standards, codes, and regulations set forth by Chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.~~

Chapter 20.59 Rural General Commercial (RGC) District

20.59.100 Accessory uses.

~~.107 Electric vehicle rapid-charging stations and battery exchange facilities, accessory to conditionally approved service stations.~~

Chapter 20.60 Neighborhood Commercial Center (NC) District

20.60.100 Accessory uses.

~~.105 Electric vehicle rapid-charging stations and battery exchange facilities, accessory to conditionally approved service stations.~~

Chapter 20.61 Small Town Commercial (STC) District

20.61.100 Accessory uses.

.109 Electric vehicle ~~rapid~~-charging stations and battery exchange facilities, ~~accessory to automobile service stations.~~

Chapter 20.62 General Commercial (GC) District

20.62.100 Accessory uses.

.105 Electric vehicle ~~rapid~~-charging stations and battery exchange facilities, ~~accessory to automobile service stations.~~

Chapter 20.63 Tourist Commercial (TC) District

20.63.100 Accessory uses.

.105 Electric vehicle ~~rapid~~-charging stations and battery exchange facilities, ~~accessory to service stations.~~

Chapter 20.65 Gateway Industrial (GI) District

20.65.100 Accessory uses.

.108 Electric vehicle ~~rapid~~-charging stations and battery exchange facilities, ~~accessory to service stations.~~

Chapter 20.67 General Manufacturing (GM) District

20.67.100 Accessory uses.

.109 Electric vehicle ~~rapid~~-charging stations and battery exchange facilities, ~~accessory to gas stations.~~

Chapter 20.69 Rural Industrial and Manufacturing (RIM) District

20.69.100 Accessory uses.

.111 Electric vehicle ~~rapid~~-charging stations and battery exchange facilities, ~~accessory to conditionally approved service stations.~~

Chapter 20.70 Airport Operations (AO) District

20.70.100 Accessory uses.

.107 Electric vehicle ~~rapid~~-charging stations and battery exchange facilities, ~~accessory to gas stations.~~

24. The language of the "Drainage" sections varies between zones and should be standardized. Staff proposes to have them all say:

"All development activities are subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635. No project permit shall be issued prior to meeting those requirements."

The clause “within Whatcom County” can be deleted because our code only applies in Whatcom County, and the clause “unless specifically exempted” can be deleted because such exemptions are listed in WCC 20.80.631, one of the referenced sections.

In addition, delete 20.22.655(1) (URM District). This is old code inserted at a time when we thought Whatcom County was going to adopt the City of Bellingham’s code to apply within its UGA. However, the City of Bellingham never provided the County with the code to adopt, and since then both Bellingham and Whatcom County have adopted the Department of Ecology Stormwater Manual; therefore, this section isn’t needed.

Chapter 20.20 Urban Residential (UR) District

20.20.656 Drainage.

All development activities ~~are y within Whatcom County shall be~~ subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635~~the Whatcom County Development Standards unless specifically exempted.~~

No project permit shall be issued prior to meeting ~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards~~those requirements.

Chapter 20.22 Urban Residential – Medium Density (URM) District

20.22.655 Drainage.

~~(1) In the Bellingham Urban Growth Area, the City of Bellingham’s design and development standards and guidelines shall apply (see WCC 20.22.665).~~

~~(2) All development activities y within Whatcom County shall be~~ subject to the stormwater management provisions of the WCC 20.80.630 through 20.80.635~~Whatcom County Development Standards unless specifically exempted.~~

No project permit shall be issued prior to meeting ~~those requirements~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Chapter 20.24 Urban Residential Mixed (UR-MX) District

20.24.656 Drainage.

All development activities are subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635. No project permit shall be issued prior to meeting those requirements.

Chapter 20.32 Residential Rural (RR) District

20.32.656 Drainage.

All development activities ~~y within Whatcom County shall be~~ subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635~~unless specifically exempted.~~

No project permit shall be issued prior to meeting ~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Code~~ those requirements.

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

20.34.659 Drainage.

All development activities ~~are y within Whatcom County shall be~~ subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635 ~~unless specifically exempted~~.

No project permit shall be issued prior to meeting ~~those requirements~~ submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Code.

Chapter 20.35 Eliza Island (EI) District

20.35.654 Drainage.

All development activities are subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635. No project permit shall be issued prior to meeting those requirements.

Chapter 20.36 Rural (R) District

20.36.656 Drainage.

All development activities ~~are y within Whatcom County shall be~~ subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635 ~~unless specifically exempted~~.

No project permit shall be issued prior to meeting ~~those requirements~~ submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Code.

Chapter 20.37 Point Roberts Transitional Zone (TZ) District

20.37.655 Drainage.

All development activities ~~are y within Whatcom County shall be~~ subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635 ~~unless specifically exempted~~.

No project permit shall be issued prior to meeting ~~those requirements~~ submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Code.

Chapter 20.40 Agriculture (AG) District

20.40.652 Drainage.

All development activities ~~are y within Whatcom County shall be~~ subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635 ~~the Whatcom County Development Standards unless specifically exempted~~.

No project permit shall be issued prior to meeting ~~those requirements~~ submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Chapter 20.42 Rural Forestry (RF) District

20.42.657 Drainage.

All development activities are y within Whatcom County shall be subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635 ~~the Whatcom County Development Standards unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements ~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.~~

Chapter 20.43 Commercial Forestry (CF) District

20.43.653 Drainage.

All development activities are y within Whatcom County shall be subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635 ~~the Whatcom County Development Standards unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements ~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.~~

Chapter 20.44 Recreation and Open Space (ROS) District

20.44.652 Drainage.

All development activities are y within Whatcom County shall be subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635 ~~unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements ~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Code.~~

Chapter 20.59 Rural General Commercial (RGC) District

20.59.704 Drainage.

All development activities are y within Whatcom County shall be subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635 ~~unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements ~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Code.~~

Chapter 20.60 Neighborhood Commercial Center (NC) District

20.60.655 Drainage.

All development activities are y within Whatcom County shall be subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635 ~~unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements ~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Code.~~

Chapter 20.61 Small Town Commercial (STC) District

20.61.704 Drainage.

All development activities are y within Whatcom County shall be subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635 ~~unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements ~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Code.~~

Chapter 20.62 General Commercial (GC) District

20.62.653 Drainage.

All development activities are y within Whatcom County shall be subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635 ~~the Whatcom County Development Standards unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements ~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.~~

Chapter 20.63 Tourist Commercial (TC) District

20.63.654 Drainage.

All development activities are y within Whatcom County shall be subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635 ~~unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements ~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Code.~~

Chapter 20.64 Resort Commercial (RC) District

20.64.655 Drainage.

All development activities are y within Whatcom County shall be subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635 ~~unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements ~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Code.~~

Chapter 20.65 Gateway Industrial (GI) District

20.65.659 Drainage.

All development activities are subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635. No project permit shall be issued prior to meeting those requirements.

Chapter 20.66 Light Impact Industrial (LII) District

20.66.653 Drainage.

All development activities ~~are y within Whatcom County shall be~~ subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635~~the Whatcom County Development Standards unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.~~

Chapter 20.67 General Manufacturing (GM) District

20.67.653 Drainage.

All development activities ~~are y within Whatcom County shall be~~ subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635~~unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Code.~~

Chapter 20.68 Heavy Impact Industrial (HII) District

20.68.653 Drainage.

All development activities ~~are y within Whatcom County shall be~~ subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635~~the Whatcom County Development Standards unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.~~

Chapter 20.69 Rural Industrial and Manufacturing (RIM) District

20.69.655 Drainage.

All development activities ~~are y within Whatcom County shall be~~ subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635~~unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Code.~~

Chapter 20.70 Airport Operations (AO) District

20.70.653 Drainage.

All development activities ~~are y within Whatcom County shall be~~ subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635~~the Whatcom County Development Standards unless specifically exempted.~~

No project permit shall be issued prior to meeting those requirements~~submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.~~

Chapter 20.72 Point Roberts Special District

20.72.658 Drainage.

All development activities ~~are y within Whatcom County shall be subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635~~ WCC 20.80.630, Stormwater and drainage, unless specifically exempted. No project permit shall be issued prior to meeting those requirements ~~the stormwater management requirements.~~

Chapter 20.74 Cherry Point Industrial (CP) District

20.74.100 Drainage.

All development activities are subject to the stormwater management provisions of WCC 20.80.630 through 20.80.635. No project permit shall be issued prior to meeting those requirements.

25. Allow park model trailers as a temporary ADU, similar to manufactured homes, travel trailers, and motorhomes.

20.97.292 Park model trailer.

“Park model trailer” means a trailer designed to provide seasonal or temporary living quarters which may be used with temporary connections to utilities necessary for operation of installed fixtures and appliances. It has a gross trailer area not exceeding 400 square feet or is approved by the state as a park model trailer.

Chapter 20.40 Agriculture (AG) District

20.40.130 Administrative approval uses.

.131 A temporary second dwelling unit of no more than 1,248 square feet in floor area, in the form of a manufactured home, a fully serviced travel trailer, park model trailer, or motor home, to provide:

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

20.34.130 Administrative approval uses.

.131 A temporary second dwelling unit of no more than 1,248 square feet in floor area, in the form of a manufactured home, a fully serviced travel trailer, park model trailer, or motor home, to provide:

Chapter 20.36 Rural (R) District

20.36.130 Administrative approval uses.

.131 A temporary second dwelling unit of no more than 1,248 square feet in floor area, in the form of a manufactured home, a fully serviced travel trailer, park model trailer, or motor home, to provide:

Chapter 20.32 Residential Rural (RR) District

20.32.130 Administrative approval uses.

.131 A temporary second dwelling unit of no more than 1,248 square feet in floor area, in the form of a manufactured home, a fully serviced travel trailer, park model trailer, or motor home, to provide:

Chapter 20.42 Rural Forestry (RF) District

20.42.130 Administrative approval uses.

.131 A temporary second dwelling unit of no more than 1,248 square feet in floor area, in the form of a manufactured home, a fully serviced travel trailer, park model trailer, or motor home, to provide:

Chapter 20.37 Point Roberts Transitional Zone (TZ) District

20.37.130 Administrative approval uses.

.131 A temporary second dwelling unit of no more than 1,248 square feet in floor area, in the form of a manufactured home, a fully serviced travel trailer, park model trailer, or motor home, to provide:

Chapter 20.24 Urban Residential Mixed (UR-MX) District

20.24.130 Administrative approval uses.

.131 A temporary second dwelling unit of no more than 1,248 square feet in floor area, in the form of a manufactured home, a fully serviced travel trailer, park model trailer, or motor home, to provide:

Chapter 20.20 Urban Residential (UR) District

20.20.130 Administrative approval uses.

.131 A temporary second dwelling unit of no more than 1,248 square feet in floor area, in the form of a manufactured home, a fully serviced travel trailer, park model trailer, or motor home, to provide:

Chapter 20.22 Urban Residential – Medium Density (URM) District

20.22.130 Administrative approval uses.

.131 A temporary second dwelling unit of no more than 1,248 square feet in floor area, in the form of a manufactured home, a fully serviced travel trailer, park model trailer, or motor home, to provide:

26. In the setback tables, delete the repetitious table notes. These “rules” are already found in WCC 20.80.250 (Special Setback Provisions by District) or other places. They have been copied here, often with slightly different language, which just confuses things and makes the setback table overly long. Staff proposes to reformat the setback table to that shown below, and reduce the notes to just references to the sections that might modify the setbacks (thus reducing repetitious, inconsistent language).

Staff also proposes to delete the header references to “principal arterials,” “neighborhood collectors,” and “commercial” and “industrial” arterials as Public Works doesn’t have these roadway classifications.

Chapter 20.80 Supplementary Requirements

20.80.210 Minimum setbacks.

(5) Setbacks.

(b) Setbacks Table.

Commercial Setbacks							
General Commercial (GC)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30' ¹	30'	25'	25'	25'	20'	0'	10'
1. Setbacks for those parcels situated adjacent to Urban Residential, Rural Cluster Development and Rural Zone Districts shall be administered pursuant to WCC 20.62.550 (Buffer area).							
Rural General Commercial (RGC)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30' ¹	30'	25'	25'	25'	20'	0'	10'
1. Setbacks for those parcels situated adjacent to Agriculture, Urban Residential, Rural Cluster Development, and Rural Zone Districts shall be administered pursuant to WCC 20.59.600 (Buffer area).							
2. Side and rear yard setbacks shall be 10 feet from vacant, adjacent, commercially zoned properties.							
Tourist Commercial (TC)							
Road Type						Other	

Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30' ¹	30'	25'	25'	25'	20'	0'	10'
Water Resource Protection Overlay							
30'	30'	20'	20'	20'	20'	0'	5'
<ol style="list-style-type: none"> Setbacks for those parcels situated adjacent to Agriculture, Urban Residential, Urban Residential Medium Density, Residential Rural and Rural Zone Districts shall be administered pursuant to WCC 20.63.550 (Buffer area). Setback requirements for recreational vehicle parks shall be 30 feet for side and rear yards. Front yard setback requirements for service islands of service stations shall be 25 feet to the center line of the driveway of the closest service island. 							
Small Town Commercial (STC)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30' ¹	30'	25'	25'	25'	20'	0'	10'
<ol style="list-style-type: none"> Commercial uses shall be allowed to reduce front yard setback to 10 feet and the side yard setback to zero feet where the site and landscape plans promote pedestrian access to the building. Side and rear yard setbacks shall be 10 feet from vacant, adjacent, commercially-zoned properties. Setbacks for those parcels situated adjacent to Agriculture, Urban Residential, Urban Residential Medium Density, Residential Rural, and Rural Zone Districts shall be administered pursuant to WCC 20.61.600 (Buffer area). 							
Resort Commercial (RC)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30'	30'	25'	25'	25'	20'	5'	5'
<ol style="list-style-type: none"> Setbacks for those parcels situated adjacent to Urban Residential, Residential Rural and Rural Zone Districts shall be administered pursuant to WCC 20.64.550 (Buffer area). Setback requirements for multifamily housing, including all condominiums except time share condominiums and mobile home parks, shall be 20 feet for side and rear yards. Setback requirements for recreational vehicle parks, and resort-oriented hotels and motels including time share condominiums, shall be 45 feet for front yard and 20 feet for side and rear yards. Setback requirements for non-resort-oriented hotels and motels and non-habitation commercial 							

development shall be zero feet for side yards and 10 feet for rear yards.

5. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.

Neighborhood Commercial (NC)

Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
25'	25'	25'	25'	25'	20'	0'	10'

Water Resource Protection Overlay

30'	30'	20'	20'	20'	20'	0'	10'
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1. Neighborhood Commercial District. Setbacks for those parcels situated adjacent to Agriculture, Urban Residential, Residential Rural and Rural Zone Districts shall be administered pursuant to WCC 20.60.550 (Buffer area).

¹When located adjacent to I-5 these setbacks may be reduced to 25' subject to the screening requirements under WCC 20.80.300.

Industrial Setbacks

Heavy Impact Industrial (HII)

Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
100'	100'	100'	100'	100'	30'	30'	30'

- All setbacks shall be increased by one foot for each foot of building height, excluding tanks and similar structures, which exceeds 50 feet.
- The building setbacks of WCC 20.80.210 shall not apply to utility or security structures such as poles, meters, fences, guard structures and the like, nor to structures relating to shipment on railroad rights-of-way; provided, that no traffic hazards are created. For nonindustrial buildings, the zoning administrator may reduce or eliminate side and rear yard setbacks from side and rear property lines that are adjoining an industrial district; provided, that all of the following provisions are met:
 - Screening will be provided to protect adjacent uses from unsightliness or visual distraction;
 - A site plan has been submitted that shows that all structures and improvements, including roof overhangs, will not cross property boundaries, and a stormwater management plan has been provided that shows that runoff will be diverted to on-site drainage facilities;

- (iii) A reduction in setbacks will not reduce solar access on adjacent properties or if a setback reduction will result in reduced solar access, all parties having an ownership interest in the property adjacent to the side or rear yards to be reduced stipulate in writing, on forms provided by the zoning administrator, to the reductions. The zoning administrator may require a title report to establish the ownership interests in the adjacent property;
 - (iv) Adjoining properties will be shielded from light sources;
 - (v) The use and storage of toxic or hazardous materials or processes will not be located within what would otherwise be the setback area unless adequate facilities to contain accidental spills on site consistent with state regulations are provided;
 - (vi) The reduced setbacks will not interfere with existing sewer, water and other easements; and
 - (vii) Reduced setbacks will not result in the creation of a traffic hazard nor will the reduced setback create a circumstance that does not comply with WCC 20.80.210(3), Vision Clearance.
3. Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.68.550 (Buffer area) and Policy 1.05 of the Heavy Impact Industrial designation of the Cherry Point-Ferndale Subarea Plan.
 4. The setback requirements of the Heavy Industrial District shall apply to the storing and handling of hazardous materials; provided, that if federal and/or state regulations require different setbacks, the greater setback (county, federal or state) shall be used.
 5. The zoning administrator may reduce setbacks for nonindustrial buildings to those of Light Impact Industrial if the reduced setbacks would not interfere with existing sewer, water and other easements. A greater reduction in setback requires approval under section (4) of the Heavy Impact Industrial Zone's setback requirements.

Light Impact Industrial (LII)

Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30'	30'	30'	30'	30'	20'	10'	10'

1. All setbacks shall be increased by one foot for each foot of building height, excluding tanks and similar structures, which exceeds 35 feet.
2. The building setbacks of WCC 20.80.210 shall not apply to utility or security structures such as poles, meters, fences, guard structures, and the like. In addition, the zoning administrator may reduce side and rear yard setbacks for other structures as provided by section (4) of the Light Impact Industrial Zone's setback requirements.
3. Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.66.550 (Buffer area).
4. The zoning administrator may reduce or eliminate side and rear yard setbacks from side and rear property lines that are adjoining an industrial district; provided, that the administrator finds that all of the following provisions are met:
 - (i) Screening will be provided to protect adjacent uses from unsightliness or visual distraction;
 - (ii) A site plan has been submitted that shows that all structures and improvements, including roof overhangs, will not cross property boundaries, and a stormwater management plan has been provided that shows that runoff will be diverted to on-site drainage facilities;
 - (iii) A reduction in setbacks will not reduce solar access on adjacent properties or if a setback reduction will result in reduced solar access, all parties having an ownership interest in the property adjacent to the side or rear yards to be reduced stipulate in writing, on forms provided by the zoning administrator, to the reductions. The zoning administrator may require a title report to establish the ownership interests in the adjacent property;
 - (iv) Adjoining properties will be shielded from light sources;
 - (v) The use and storage of toxic or hazardous materials or processes will not be located within what would otherwise be the setback area unless adequate facilities to contain accidental spills on site consistent with state regulations are provided;
 - (vi) The reduced setbacks will not interfere with existing sewer, water and other easements; and
 - (vii) Reduced setbacks will not result in the creation of a traffic hazard nor will the reduced setback create a circumstance that does not comply with WCC 20.80.210(3), Vision Clearance.

General Manufacturing (GM)

Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30'	30'	30'	30'	30'	20'	10'	10'

1. All setbacks shall be increased by one foot for each foot of building height which exceeds 35 feet.
2. The building setbacks of WCC 20.80.210 shall not apply to utility or security structures such as poles, meters, fences, guard structures and the like.
3. Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.67.550 (Buffer area).
4. The zoning administrator may reduce or eliminate side and rear yard setbacks from side and rear property lines that are adjoining an industrial district; provided, that the administrator finds that all of the following provisions are met:
 - a. Screening will be provided to protect adjacent uses from unsightliness or visual distraction;
 - b. A site plan has been submitted that shows that all structures and improvements, including roof overhangs, will not cross property boundaries, and a stormwater management plan has been provided that shows that runoff will be diverted to on-site drainage facilities;
 - c. A reduction in setbacks will not reduce solar access on adjacent properties or if a setback reduction will result in reduced solar access, all parties having an ownership interest in the property adjacent to the side or rear yards to be reduced stipulate in writing, on forms provided by the zoning administrator, to the reductions. The zoning administrator may require a title report to establish the ownership interests in the adjacent property;
 - d. Adjoining properties will be shielded from light sources;
 - e. The use and storage of toxic or hazardous materials or processes will not be located within what would otherwise be the setback area unless adequate facilities to contain accidental spills on site consistent with state regulations are provided;
 - f. The reduced setbacks will not interfere with existing sewer, water and other easements; and
 - g. Reduced setbacks will not result in the creation of a traffic hazard nor will the reduced setback create a circumstance that does not comply with WCC 20.80.210(3), Vision Clearance.
5. The zoning administrator may reduce setbacks for nonindustrial buildings to those of Light Impact Industrial if the reduced setbacks would not interfere with existing sewer, water and other easements. A greater reduction in setback requires approval under section (4) of the General Manufacturing Zone's setback requirements.

Gateway Industrial (GI)

Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
25'	25'	25'	25'	25'	25'	10'	10'

1. Maximum building height shall not exceed 35 feet; except, that an additional foot in height is allowed for each one-foot increase in setback in the yard adjoining the interstate highway up to 45 feet in Map 3 of the Urban Fringe Subarea. Height of structures, where applicable, shall also conform to the general requirements of WCC 20.80.675.

Airport Operations (AO)

Road Type						Other	
Commercial, Industrial, I-5, State	Collector Arterials or	Minor Collectors	Local Access	Neighborhood Collector	Minor Access	Side Yard	Rear Yard

Hwys, Principal & Minor Arterials	Major Collectors		Streets		Streets		
30'	30'	30'	30'	30'	20'	10'	10'

1. Setbacks for parcels adjoining a nonindustrial district shall be administered pursuant to WCC 20.70.550 (Buffer area).
2. The zoning administrator may reduce or eliminate side and rear yard setbacks from side and rear property lines that are adjoining an industrial district; provided, that the administrator finds that all of the following provisions are met:
 - (i) Screening will be provided to protect adjacent uses from unsightliness or visual distraction;
 - (ii) A site plan has been submitted that shows that all structures and improvements, including roof overhangs, will not cross property boundaries, and a stormwater management plan has been provided that shows that runoff will be diverted to on-site drainage facilities;
 - (iii) A reduction in setbacks will not reduce solar access on adjacent properties or if a setback reduction will result in reduced solar access, all parties having an ownership interest in the property adjacent to the side or rear yards to be reduced stipulate in writing, on forms provided by the zoning administrator, to the reductions. The zoning administrator may require a title report to establish the ownership interests in the adjacent property;
 - (iv) Adjoining properties will be shielded from light sources;
 - (v) The use and storage of toxic or hazardous materials or processes will not be located within what would otherwise be the setback area unless adequate facilities to contain accidental spills on site consistent with state regulations are provided;
 - (vi) The reduced setbacks will not interfere with existing sewer, water and other easements; and
 - (vii) Reduced setbacks will not result in the creation of a traffic hazard nor will the reduced setback create a circumstance that does not comply with WCC 20.80.210(3), Vision Clearance.

Rural Industrial – Manufacturing (RIM)

Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30'	30'	30'	30'	30'	20'	10'	10'

1. Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.69.550 (Buffer area).

Resource Lands Setbacks

Agricultural (AG)

Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard

50'	50'	50'	50'	50'	50'	20'	20'
<p>1. The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment and the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.</p> <p>2. The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor's residence, and pastures are excluded from this section's requirements.</p> <p>3. Parcels of less than five nominal acres shall have the following minimum setbacks:</p> <ul style="list-style-type: none"> • <i>Front yards:</i> <ul style="list-style-type: none"> — Primary arterials and secondary arterials: 45 feet. — Collector arterials: 35 feet. — Neighborhood collectors, local access streets: 25 feet. — Minor access streets: 20 feet. <p>Minimum front yard requirements can be reduced by the zoning administrator for boundary line adjustments or farmstead parcels established through WCC 20.40.253 and 20.40.254 if the proposed placement of the structures will result in a better fit with critical areas or prime soils and goes through the approval process in Chapter 21.03 WCC. In no case shall front yard depth be less than 20 feet.</p> • <i>Side yards:</i> minimum side yard setbacks shall be five feet. For boundary line adjustments or farmstead parcels established through WCC 20.40.253 and 20.40.254, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet. • <i>Rear yards:</i> minimum rear yard setbacks shall be five feet. <p>4. A marijuana production or processing facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility and the waiver is approved through an administrative approval process per WCC 20.84.235.</p> <p>5. A marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.</p> <p>6. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval</p>							

from the International Boundary Commission.

Commercial Forestry (CF)

Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	25'	25'	20'	100'	100'

Water Resource Protection Overlay

30'	30'	20'	20'	20'	20'	100'	100'
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1. ~~Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.~~

Rural Forestry (RF)

Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	25'	25'	20'	20'	20'

Water Resource Protection Overlay

30'	30'	20'	20'	20'	20'	20'	20'
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1. Setbacks shall be increased to 100 feet for those parcels in the Rural Forestry Zone situated adjacent to the Commercial Forestry Zone, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.42.651 shall be subject to the standard setback of the Rural Forestry Zone. Forest industry buildings, stationary equipment or storage areas excluding scaling stations and watchman's stations shall not be located within 100 feet of any other zone district.
2. ~~Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.~~
3. ~~When a permitted residence (WCC 20.42.056) adjoins an existing parcel of 20 acres or more in size or a parcel that is being cultivated for commercial forestry production, a minimum building setback of 100 feet shall be established from the common property line.~~
4. ~~Lummi Island scenic estates setbacks shall be administered under the Rural Residential Island setback standards.~~
5. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.
6. A marijuana production or processing facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning

administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility and the waiver is approved through an administrative approval process per WCC 20.84.235.

7. A marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

Rural Residential Setbacks

Residential Rural (RR)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	25'	25'	20'	5' [±]	5'
Water Resource Protection Overlay							
30'	30'	20'	20'	20'	20'	5'	5'
<p>1. Setbacks shall be increased to 100 feet for those parcels situated adjacent to the Forestry Zone District, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.32.651 shall be subject to the standard setback in WCC 20.80.210.</p> <p>2. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.</p>							
Rural Residential Island (RR-I)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
-	-	25'	25'	25'	20'	5'	5'
<p>1. Residential Rural Island District. Setbacks shall be increased to 100 feet for those parcels situated adjacent to the Forestry Zone Districts, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.42.651 shall be subject to the standard</p>							

setback in WCC 20.80.210.

Point Roberts Transitional Zone (TZ)

Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	25'	25'	20'	5'	5'

No additional standards.

¹Zero lot line side yard setbacks may be approved by the zoning administrator for single family attached dwelling units along the common property line where the dwellings share a common wall.

Rural Zoning Setbacks

Rural (R)

Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	45'	35'	25'	25'	20'	5'	5'
Water Resource Protection Overlay							
30'	30'	20'	20'	20'	20'	5'	5'

1. Setbacks shall be increased to 100 feet for those parcels situated adjacent to the Commercial Forestry Zone District, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.36.651 shall be subject to the standard setback in WCC 20.80.210.
2. Lots created after 2001 through the cluster provisions, or lots created through the APO provisions which will be used for human habitation, shall be set back a minimum of 100 feet from the property line of any parcel or portion thereof which is designated or used for agricultural purposes. No structures shall be constructed within 30 feet of exterior, side and rear property lines, and no structure shall be constructed within 30 feet of an agricultural use. Subject to any further requirements within Chapter 20.38 WCC, Agriculture Protection Overlay.
3. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.
4. A marijuana production or processing facility shall not be located within 1,000 feet of a community center. The distance shall be measured as the shortest straight line distance from the property line of the proposed building/business location to the property line of the community center. The zoning administrator may waive this spacing requirement from community centers if the authorized representatives of all existing community centers within 1,000 feet provide a notarized written agreement as provided by the department consenting to the facility.
5. A marijuana production or processing facility shall not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling (structure) to any structure or fence used for the production or processing of marijuana. The zoning administrator may waive this spacing requirement from residential units if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the department consenting to the facility, and the waiver is approved through an administrative approval process per WCC 20.84.235.

Urban Residential Setbacks

Urban Residential Mixed Use (UR-MX)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	10'	10'	10'	5'	5'
Water Resource Protection Overlay							
30'	30'	20'	20'	20'	20'	5'	5'
<ol style="list-style-type: none"> 1. No specific setback requirements shall apply to a planned concept submitted for technical committee review. This provision could be used, for example, to allow zero lot line development. 							

Urban Residential Medium (URM)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	25'	25'	20'	5'	5'
Water Resource Protection Overlay							
30'	30'	20'	20'	20'	20'	5'	5'
1. Setback requirements for mobile home parks shall be 20 feet from the perimeter of the park for side and rear yards and shall be screened from neighboring uses in accordance with WCC 20.80.345.							
Urban Residential (UR)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
45'	35'	25'	25'	25'	20'	5' ¹	5'
Water Resource Protection Overlay							
30'	30'	20'	20'	20'	20'	5'	5'
<p>1. Setbacks shall be increased to 100 feet for those parcels situated adjacent to the Forestry Zone District, except that such parcels which are less than 20,000 square feet in a subdivision approved prior to January 1, 1987, and whose owners have filed an agreement with the county auditor as specified in WCC 20.20.651, shall be subject to the standard setback in WCC 20.80.210.</p> <p>2. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.</p>							
¹ Zero lot line side yard setbacks may be approved by the zoning administrator for single family attached dwelling units along the common property line where the dwellings share a common wall.							

Other Zoning Setbacks

Recreation Open Space (ROS)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
100'	100'	50'	50'	50'	50'	50'	50'
<ol style="list-style-type: none"> 1. Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet. 2. Shoreline setbacks shall be administered consistent with the Shoreline Management Program of Whatcom County; provided, that a 25-foot setback is maintained from the ordinary high water mark of all water bodies and a 50-foot setback is maintained from the ordinary high water mark of fish spawn streams. 3. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission. 							
Water Resource Protection Overlay (WRPO)							
Road Type						Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Neighborhood Collector	Minor Access Streets	Side Yard	Rear Yard
30'	30'	20'	20'	20'	20'	See underlying zoning ¹	See underlying zoning ¹
1. No additional standards.							
¹ Refer to additional provisions of WCC 20.64.250 or 20.65.400.							

Zoning District	Setback (in feet) from:						
	Right-of-Way Classification						
	I-5, State Hwys, Urban Principal, & Urban Minor Arterials	Urban Collector Arterials & Rural Major Collectors	Minor Collectors	Local Access Streets	Minor Access Streets	Side Yard	Rear Yard
Residential Setbacks							
Rural Residential (RR)	45	35	25	25	20	5	5
- If in a WRPO ¹ or LWWO ²	30	30	20	20	20	5	5
Note: Depending on circumstances, some RR setbacks may differ pursuant to WCC 20.80.210(5)(a)(iv) and 20.80.251(2).							
Rural Residential-Island (RR-I)	=	=	25	25	20	5	5
Note: Depending on circumstances, some RR-I setbacks may differ pursuant to WCC 20.80.251(4).							
Point Roberts Transitional Zone (TZ)	45	35	25	25	20	5	5
Urban Residential Mixed Use (UR-MX)	45	35	25	10	10	5	5
- If in a WRPO ¹ or LWWO ²	30	30	20	20	20	5	5
Urban Residential Medium (URM)	45	35	25	25	20	5	5
- If in a WRPO ¹ or LWWO ²	30	30	20	20	20	5	5
Note: Depending on circumstances, some URM setbacks may differ pursuant to WCC 20.80.251(3).							
Urban Residential (UR)	45	35	25	25	20	5	5
- If in a WRPO ¹ or LWWO ²	30	30	20	20	20	5	5
Note: Depending on circumstances, some UR setbacks may differ pursuant to WCC 20.80.251(1).							
Rural Setbacks							
Rural (R)	45	45	35	25	20	5	5
- If in a WRPO ¹ or LWWO ²	30	30	20	20	20	5	5
Note: Depending on circumstances, some R setbacks may differ pursuant to WCC 20.38.060(7), 20.80.210(5)(a)(iv), and 20.80.252.							
Commercial Setbacks							
General Commercial (GC)	30	30	25	25	20	0	10
Note: Depending on circumstances, some GC setbacks may differ pursuant to WCC 20.62.550.							
Rural General Commercial (RGC)	30	30	25	25	20	0	10
Note: Depending on circumstances, some RGC setbacks may differ pursuant to WCC 20.59.600.							
Tourist Commercial (TC)	30	30	25	25	20	0	10
Note: Depending on circumstances, some TC setbacks may differ pursuant to WCC 20.63.550 and 20.80.253(3).							
Small Town Commercial (STC)	30	30	25	25	20	0	10
Note: Depending on circumstances, some STC setbacks may differ pursuant to WCC 20.59.600, 20.61.400(1), and 20.61.600.							
Resort Commercial (RC)	30	30	25	25	20	5	5
Note: Depending on circumstances, some RC setbacks may differ pursuant to WCC 20.64.350, 20.64.550, and 20.80.253(4).							
Neighborhood Commercial	25	25	25	25	20	0	10

Zoning District	Setback (in feet) from:							
	Right-of-Way Classification							
	I-5, State Hwys, Urban Principal, & Urban Minor Arterials	Urban Collector Arterials & Rural Major Collectors	Minor Collectors	Local Access Streets	Minor Access Streets	Side Yard	Rear Yard	Other
(NC)								
- If in a WRPO ¹ or LWWO ²	30	30	20	20	20	0	10	
Note: Depending on circumstances, some NC setbacks may differ pursuant to WCC 20.80.253 and 20.60.550.								
Industrial Setbacks								
Heavy Impact Industrial (HII)	100	100	100	100	30	30	30	
Note: Depending on circumstances, some HII setbacks may differ pursuant to WCC 20.68.552 and 20.80.254(3).								
Light Impact Industrial (LII)	30	30	30	30	20	10	10	
Note: Depending on circumstances, some LII setbacks may differ pursuant to WCC 20.80.254(1).								
General Manufacturing (GM)	30	30	30	30	20	10	10	
Note: Depending on circumstances, some GM setbacks may differ pursuant to WCC 20.80.254(2).								
Gateway Industrial (GI)	25	25	25	25	25	10	10	
Note: Depending on circumstances, some GI setbacks may differ pursuant to WCC 20.65.400.								
Airport Operations (AO)	30	30	30	30	20	10	10	
Note: Depending on circumstances, some AO setbacks may differ pursuant to WCC 20.70.550 and 20.80.254(4).								
Rural Industrial – Manufacturing (RIM)	30	30	30	30	20	10	10	
Note: Depending on circumstances, some RIM setbacks may differ pursuant to WCC 20.69.350 and 20.69.550.								
Resource Lands Setbacks								
Agricultural (AG)								
- parcels ≥ 5 acres	50	50	50	50	50	20	20	
- parcels < 5 acres	45	35	25	25	20	5	5	
Note: Depending on circumstances, some AG setbacks may differ pursuant to WCC 20.38.060(7) and 20.80.255.								
Rural Forestry (RF)	45	35	25	25	20	20	20	
- If in a WRPO ¹ or LWWO ²	30	30	20	20	20	20	20	
Note: Depending on circumstances, some RF setbacks may differ pursuant to WCC 20.80.210(5)(a)(iv) and 20.80.256.								
Commercial Forestry (CF)	45	35	25	25	20	100	100	
- If in a WRPO ¹ or LWWO ²	30	30	20	20	20	100	100	
Note: Depending on circumstances, some CF setbacks may differ pursuant to WCC 20.80.256(2).								
Other Setbacks								
Recreation Open Space (ROS)	100	100	50	50	50	50	50	
Note: Depending on circumstances, some ROS setbacks may differ pursuant to WCC 20.80.257.								

¹ Water Resources Protection Overlay district

² Lake Whatcom Watershed Overlay district

27. In 20.80.254:

- Delete the reference to the Cherry Point/Ferndale Subarea Plan in subsection (3)(c), as it is docketed for repeal. The intent of this policy is already included within the regulation of 20.68.552.
- Fix the faulty cross-reference in subsection (3)(b).
- Delete the last sentence of (3)(e), as it makes no sense (refers to a process in (3)(d), but there is no process in that section).

20.80.250 Special setback provisions by district.

20.80.254 Industrial districts.

(3) Heavy Impact Industrial District.

- (a) All setbacks shall be increased by one foot for each foot of building height, (excluding tanks and similar structures), ~~which that~~ exceeds 50 feet in height.
 - (b) The building setbacks of WCC 20.80.210 shall not apply to utility or security structures such as poles, meters, fences, guard structures and the like, nor to structures relating to shipment on railroad rights-of-way; provided, that no traffic hazards are created. For nonindustrial buildings, the provisions of subsection (23)(e) of this section shall apply.
 - (c) Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.68.550 (Buffer Area) ~~and Policy 1.05 of the Heavy Impact Industrial designation of the Cherry Point-Ferndale Subarea Plan.~~
 - (d) The setback requirements of the Heavy Impact Industrial District shall apply to the storing and handling of hazardous materials; provided, that if federal and/or state regulations require different setbacks, the greater setback (county, federal, or state) shall be used.
 - (e) The zoning administrator may reduce setbacks for nonindustrial buildings to those of Light Impact Industrial if the reduced setbacks would not interfere with existing sewer, water and other easements. A greater reduction in setback requires approval under subsection (3)(d) of this section.
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Chapter 20. 25 Land Use and Development Fees

28. The current refund code language is oriented towards short-term permit time periods rather than the lengthier docketing of Comprehensive Plan or code amendments. Docket items can take a year or more (sometimes several years) to process due to PDS workloads, state mandates, Council priorities, and/or work program resource limitations. However, the existing refund deadlines of 14 or 90 days precludes an applicant from receiving a refund after those deadlines even if work has not yet commenced on the project. This proposed amendment would allow for partial to full application fee refunds for docketed items depending upon the amount of review and work undertaken by PDS.

22.25.040 Refund of application fees.

Refunds of application fees for project permits and for amendments to the Whatcom County comprehensive plan, development regulations and official maps shall be computed based on the following, unless otherwise indicated in the Whatcom County Code. All refund requests shall be submitted in writing to the department of planning and development services director. The date of application for a refund request shall be the date the written refund request is received by the department. For the purpose of computing elapsed calendar days, the day after the date of application or deadline date as appropriate shall be counted as day one.

(1) Fees for Project Permits.

- (a) Applications withdrawn on or before the fourteenth calendar day after the date of application shall be eligible for a refund of 90 percent of all application fees including any SEPA fees.
- (b) Applications withdrawn after the period set forth in subsection (1)(a) of this section but on or before the ninetieth calendar day after the date of application shall be eligible for a refund of 50 percent of all application fees except for any SEPA fees which shall not be eligible for a refund.
- (c) Applications withdrawn after the ninetieth calendar day after the date of application shall not be eligible for a refund.
- (d) Notwithstanding the above, no fees shall be refunded for any permit or approval that has been issued or granted by the county.
- (e) The director may authorize a full refund of any project permit application fee paid in error.

(2) Fees for Amendments to the Whatcom County Comprehensive Plan, Development Regulations, and Official Maps.

- (a) The docketing fee shall be non-refundable.
- (b) The amendment application fee may be refunded, if the application is withdrawn, as follows:
 - (i) If the application has been docketed, but review of the application has not commenced, 100% of the application fee may be refunded.
 - (ii) If the application has been docketed and review of the application has commenced, but the staff report has not been issued, 75% of the application fee may be refunded.
 - (iii) If the application has been docketed and a staff report has been issued, but a Planning Commission hearing has not been held, 50% of the application fee may be refunded.
 - (iv) If the application has been docketed and the Planning Commission has held a public hearing, then the application fee may not be refunded.

- (c) The SEPA checklist fee may be refunded if the application is withdrawn and SEPA review has not commenced.
- ~~(a)~~(d) The legal notice fee may be refunded if the application is withdrawn and legal notice has not been published.
- (a) Applications for amendments that are withdrawn on or before the fourteenth calendar day after the deadline for submitting the fee shall be eligible for a refund of 90 percent of all application fees including SEPA fees. If there is no deadline for submitting the fee, the 90 percent refund shall be given if the application is withdrawn on or before the fourteenth calendar day after the fee was submitted.
- (b) Applications for amendments that are withdrawn after the period set forth in subsection (2)(a) of this section but on or before the ninetieth calendar day after the deadline for submitting the fee shall be eligible for a refund of 50 percent of all application fees except for SEPA fees which shall not be eligible for a refund. If there is no deadline for submitting the fee, the 50 percent refund shall be given if the application is withdrawn on or before the ninetieth calendar day after the fee was submitted.
- (c) Applications for amendments that are withdrawn after the 90 calendar days shall not be eligible for a refund. (3) Withdrawal of an application shall constitute full surrender of any express or implied rights inherent in an application which has been perfected and accepted by the planning and development services department or its designees.