

Whatcom County Code

Chapter 22.10

LEGISLATIVE ACTION PROCEDURES

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22.10.010 Purpose and applicability.

This chapter establishes the procedures for legislative actions amending the Whatcom County comprehensive plan and the development regulations that implement that plan. Amendments to the comprehensive plan include changes to the plan's text and maps, and amendments to the development regulations include changes to the official zoning map and the text in WCC Titles 16, 20, 21, and 23. For purposes of this chapter, comprehensive plan amendments include amendments to subarea plans. (Ord. 2018-032 § 1 (Exh. A)).

22.10.020 The docket.

- (1) The department of planning and development services ("department") shall maintain a proposed docket of comprehensive plan and development regulation amendment applications and shall present it to the county council for review once a year on or about March 1st. The county council may, by resolution, approve a docket listing all applications that may be processed per the provisions of this chapter.
- (2) The department, the executive, the planning commission, or the county council by majority vote, may place a proposed amendment on the docket at any time.
- (3) A party other than the county council, executive, the planning commission or the department may suggest an amendment to the comprehensive plan or development regulations by making application on forms provided by the department and submitting any required docketing fee.
 - (a) Applications for suggested amendments must be submitted by December 31st in order to be included on the proposed docket presented to the county council at its next annual docket review. The department shall review the application for completeness and may request additional information to ensure the application is complete before scheduling it for the annual docket review.
 - (b) If the county council docketed a suggested amendment, all required amendment application fees are due within 30 calendar days after it is docketed. If all fees are not paid within 30 calendar days after being docketed, the department shall close the application and remove it from the docket. When docketing an application, the county council may waive the application fees if it finds the proposed amendment would clearly benefit the community as a whole.
- (4) The county council, by majority vote, may remove a proposed amendment from the approved docket by motion, unless:
 - (a) The amendment was proposed by a party other than the county council or the department per subsection (3) of this section, and
 - (b) The applicant has provided all information required by the planning and development services department. The department shall notify the applicant not less than 30 calendar days prior to consideration of removal from the docket. If the county council has not acted upon a docketed proposed amendment during the year for which it has been docketed, the county council may place the amendment on the following year's docket. (Ord. 2018-032 § 1 (Exh. A)).

22.10.030 Processing of docketed amendments.

(1) The department shall review docketed comprehensive plan and development regulation amendment applications as provided below:

(a) For suggested amendment applications filed per WCC [22.10.020\(3\)](#), the department shall evaluate the applications for completeness and may request additional information of the applicant prior to requesting the appropriate hearing body to schedule a public hearing. Where a development regulation amendment requires a comprehensive plan amendment, the two amendments shall be processed at the same time.

(b) The department shall conduct environmental review under SEPA and prepare a staff report including recommendations and/or options for each docketed amendment. Both the report and the result of the environmental review shall be forwarded to the planning commission, and to the applicable city staff if the proposed amendment applies to land within a city's urban growth area.

(c) The staff report shall evaluate the proposed amendment(s) in relationship to the approval criteria of WCC [22.10.060](#), and consider any environmental impacts or mitigation measures identified by the Whatcom County SEPA official. If the proposed amendment includes land within a city's urban growth area, the staff report shall also address any comments from the city regarding consistency with the applicable city comprehensive plan and the ability of the city to provide needed utility services.

(2) Docketed comprehensive plan and development regulation amendment applications shall receive a public hearing by the planning commission subject to the notice requirements of WCC [22.10.050](#). Following the public hearing, the planning commission shall vote to adopt findings of fact and recommended actions, which the department shall transmit to the county council. In addition to the public hearing, the planning commission may hold public work sessions to discuss a proposed amendment.

(3) The county council may hold a public hearing on the docketed amendment in addition to the planning commission's public hearing. If the county council decides the public interest is better served by considering a final action that differs from the planning commission recommendation, the county council shall hold a public hearing. The county council, by majority vote, may adopt the amendment by ordinance, reject the amendment, or remand the proposed amendment to the planning commission for further review.

(4) Actions that are quasi-judicial as defined in RCW 42.36.010 (including but not limited to a zoning map amendment for a single lot) are subject to the appearance of fairness doctrine, Chapter 42.36 RCW. For a proposed amendment that is a quasi-judicial action, the planning commission and county council shall process the application in accordance with Chapter 42.36 RCW in addition to the requirements of this section. (Ord. 2018-032 § 1 (Exh. A)).

22.10.040 Concurrent review of comprehensive plan amendments.

(1) While public hearings and other public discussion of proposed comprehensive plan amendments may take place at any time of the year, the county council's final review and adoption of those amendments shall take place concurrently, no more frequently than once per calendar year, in accordance with RCW 36.70A.130(2)(a). Final adoption should occur on or about February 1st.

(2) The following comprehensive plan amendments are excluded from the requirement of annual concurrent review and may be adopted at any time:

(a) The initial adoption of a subarea plan;

(b) Adoption or amendment of the shoreline master program under procedures set forth in Chapter 90.58 RCW;

(c) The amendment of the capital facilities element concurrent with adoption or amendment of the county budget;

- (d) Amendments needed to resolve an appeal of the comprehensive plan filed with the Growth Management Hearings Board or the court; or
- (e) Amendments necessary in cases where the county council finds an emergency exists. (Ord. 2018-032 § 1 (Exh. A)).

22.10.050 Notice of public hearing.

(1) The county shall publish notice of the public hearing at least once in the official county newspaper and on the Whatcom County website no fewer than 10 calendar days prior to the hearing. The notice shall include the date, time, place, and subject of the hearing.

(2) For public hearings involving a quasi-judicial zoning map amendment application, per WCC [22.10.030](#)(4), the county shall provide the following notice in addition to the requirements of subsection (1) of this section:

(a) The county shall mail notice to property owners as follows:

(i) For zoning map amendments within existing urban growth areas: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 300 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit mailing labels with a typed address for each of the above-referenced property owners.

(ii) For zoning map amendments outside existing urban growth areas: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit mailing labels with a typed address for each of the above-referenced property owners.

(iii) For zoning map amendments that involve rezoning property to an Airport Operations District: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 1,500 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit mailing labels with a typed address for each of the above-referenced property owners.

(iv) For zoning map amendments that involve rezoning property to a mineral resource land designation: At least 10 calendar days prior to the scheduled hearing date, hearing notice shall be mailed to all property owners within 2,000 feet of the external boundaries of the subject property as shown by the records of the county assessor. The applicant shall submit mailing labels with a typed address for each of the above-referenced property owners.

(b) The county shall prepare and the applicant shall post signs giving notice of the hearing in conspicuous locations on the property at least 10 calendar days prior to the hearing.

(c) The county shall send notice to the appropriate city, when the proposed amendment is within or would expand the urban growth area, and to agencies, school districts, and tribes that will potentially be affected by the proposed amendment at least 10 calendar days prior to the hearing.

(d) For sites within 4,500 feet of the runway of Lynden Airport or Floathaven Sea Plane Base: At least 10 calendar days prior to the scheduled hearing date, application notice shall be sent to the city manager (if applicable), airport board or commission (if applicable), and an official representative of the airport.

(e) For sites within 10,000 feet of the runway of Bellingham International Airport: At least 10 calendar days prior to the scheduled hearing date, application notice shall be sent to the Port of Bellingham.

(f) All notices shall specify the date, time, location, and purpose of the hearing and provide a description and the location of the proposed rezone. The public shall be

invited to submit written comments and attend the hearing to provide oral comments. (Ord. 2018-032 § 1 (Exh. A)).

22.10.060 Approval criteria.

(1) In order to approve a comprehensive plan amendment, the planning commission and the county council shall find all of the following:

- (a) The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any interlocal planning agreements.
- (b) Further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the amendment.
- (c) The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:
 - (i) The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.
 - (ii) The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.
 - (iii) Anticipated impact upon designated agricultural, forest and mineral resource lands.
- (d) The amendment does not include or facilitate spot zoning.

(2) In order to approve an amendment to the development regulations, the planning commission and county council shall find that the amendment is consistent with the comprehensive plan. (Ord. 2018-032 § 1 (Exh. A)).

RCW 36.70A.130

Comprehensive plans—Review procedures and schedules—Amendments.

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW **36.70A.040** shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under

RCW [36.70A.040](#), an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW [36.70A.035](#) and [36.70A.140](#) that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section.

Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter [43.21C](#) RCW;

(ii) The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter [90.58](#) RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW [43.21C.440](#), provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW [36.70A.110](#) shall review, according to the schedules established in subsections (4) and (5) of this section, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW [36.70A.215](#).

(4) Except as otherwise provided in subsections (6) and (8) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and

development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before June 30, 2015, for King, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2016, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2017, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2018, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsections (6) and (8) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before June 30, 2024, and every eight years thereafter, for King, Kitsap, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2025, and every eight years thereafter, for Clallam, Clark, Island, Jefferson, Lewis, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2026, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas, Skamania, Spokane, Walla Walla, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2027, and every eight years thereafter, for Adams, Asotin, Columbia, Ferry, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a deadline established in subsection (5)(a)(ii) through (iv) [(b) through (d)] of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (5)(a)(ii) through (iv) [(b) through (d)] of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(d) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW [36.70A.040](#)(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter [43.155](#) or [70A.135](#) RCW:

(i) Complying with the deadlines in this section; or

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas.

(b) A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW [43.17.250](#).

(8)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under RCW [36.70A.710](#)(1) may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed if:

(i) A work plan has been approved for that watershed in accordance with RCW [36.70A.725](#);

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under RCW [36.70A.720](#);

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning ten years from the date of receipt of funding, a county that has made the election under RCW [36.70A.710](#)(1) must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section. This subsection (8)(c) does not apply to a participating watershed that has determined under RCW [36.70A.720](#)(2)(c)(ii) that the watershed's goals and benchmarks for protection have been met.

[[2020 c 113 § 1](#); [2020 c 20 § 1026](#); [2012 c 191 § 1](#). Prior: [2011 c 360 § 16](#); [2011 c 353 § 2](#); prior: [2010 c 216 § 1](#); [2010 c 211 § 2](#); [2009 c 479 § 23](#); [2006 c 285 § 2](#); prior: [2005 c 423 § 6](#); [2005 c 294 § 2](#); [2002 c 320 § 1](#); [1997 c 429 § 10](#); [1995 c 347 § 106](#); [1990 1st ex.s. c 17 § 13](#).]

NOTES:

Reviser's note: This section was amended by 2020 c 20 § 1026 and by 2020 c 113 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW [1.12.025](#)(2). For rule of construction, see RCW [1.12.025](#)(1).

Intent—2011 c 353: "It is the legislature's intent to provide local governments with more time to meet certain statutory requirements. Many cities and counties in Washington are facing revenue shortfalls, higher expenses, and more difficulty with borrowing money as a result of the economic downturn. The effects of the economic downturn on the budgets of local governments will be felt most deeply from 2010 to 2012. Local governments are facing the combined impact of decreased tax revenues, a falloff in state and federal aid, and increased demand for social services. With the loss of tax revenue and state and federal aid, local governments are being forced to make significant cuts that will eliminate jobs, curtail essential services, and increase the number of people in need. Additionally, local governments are struggling to comply with certain statutory requirements. Local governments want to comply with these statutory requirements, but

with budget constraints, they need more time to do so. The legislature does not intend to remove any existing statutory requirement, but rather modify the time under which a local government must meet certain statutory requirements." [[2011 c 353 § 1.](#)]

Effective date—Transfer of power, duties, and functions—2010 c 211: See notes following RCW [36.70A.250.](#)

Effective date—2009 c 479: See note following RCW [2.56.030.](#)

Intent—2006 c 285: "There is a statewide interest in maintaining coordinated planning as called for in the legislative findings of the growth management act, RCW [36.70A.010.](#) It is the intent of the legislature that smaller, slower-growing counties and cities be provided with flexibility in meeting the requirements to review local plans and development regulations in RCW [36.70A.130,](#) while ensuring coordination and consistency with the plans of neighboring cities and counties." [[2006 c 285 § 1.](#)]

Intent—Effective date—2005 c 423: See notes following RCW [36.70A.030.](#)

Intent—2005 c 294: "The legislature recognizes the importance of appropriate and meaningful land use measures and that such measures are critical to preserving and fostering the quality of life enjoyed by Washingtonians. The legislature recognizes also that the growth management act requires counties and cities to review and, if needed, revise their comprehensive plans and development regulations on a cyclical basis. These requirements, which often require significant compliance efforts by local governments are, in part, an acknowledgment of the continual changes that occur within the state, and the need to ensure that land use measures reflect the collective wishes of its citizenry.

The legislature acknowledges that only those jurisdictions in compliance with the review and revision schedules of the growth management act are eligible to receive funds from the public works assistance and water quality accounts in the state treasury. The legislature further recognizes that some jurisdictions that are not yet in compliance with these review and revision schedules have demonstrated substantial progress towards compliance.

The legislature, therefore, intends to grant jurisdictions that are not in compliance with requirements for development regulations that protect critical areas, but are demonstrating substantial progress towards compliance with these requirements, twelve months of additional eligibility to receive grants, loans, pledges, or financial guarantees from the public works assistance and water quality accounts in the state treasury. The legislature intends to specify, however, that only counties and cities in compliance with the review and revision schedules of the growth management act may receive preference for financial assistance from these accounts." [[2005 c 294 § 1.](#)]

Effective date—2005 c 294: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 5, 2005]." [[2005 c 294 § 3.](#)]

Prospective application—1997 c 429 §§ 1-21: See note following RCW [36.70A.3201.](#)

Severability—1997 c 429: See note following RCW [36.70A.3201.](#)

Finding—Severability—Part headings and table of contents not law—1995 c 347: See notes following RCW [36.70A.470.](#)

Definitions: See RCW [36.70A.703.](#)

RCW [36.70A.130](#)(2) does not apply to master planned locations in industrial land banks:

RCW [36.70A.367](#)(2)(c).