

Proposed Development Regulation Amendments

<p>Plain text = existing code with no changes Strikethrough = existing code to be deleted <u>Underlined</u> = new code to be added Double Strikethrough = existing code moved to another location <u>Double Underline</u> = existing code moved from another location <i>Italics</i> = instructions to code reviser [Bracketed] = options for public comment</p>
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S-1 Transfer of Jurisdiction for Forest Practices [not included]

This item is being developed through a separate process.

S-2 CAO Update

14.04.020 Definitions

The following definitions are amended:

Land use impact: the impact of a land use on adjacent wetlands, based on the land use impacts in Table 8C-3 (as updated in 2014) of Department of Ecology publication No. 05-06-008, Wetlands in Washington State, Volume 2 consisting of three levels:

~~Land use intensity, low~~ impact land use: land uses which are associated with low levels of human disturbance or low habitat impacts, including, but not limited to, passive recreation, open space, or forest management land uses.

~~Land use intensity, moderate~~ impact land use: land uses which are associated with moderate levels of human disturbance or substantial habitat impacts including, but not limited to, low-density residential (no more than one home per five acres), active recreation, and moderate agricultural land uses.

~~Land use intensity, high~~ impact land use: land uses which are associated with high levels of human disturbance or substantial habitat impacts including, but not limited to, medium- and high-density residential (more than one home per five acres), multifamily residential, some agricultural practices, and commercial and industrial land uses.

The following sections of SCC Chapter 14.24 are amended as follows:

14.24.200 Wetlands designations.

- (1) *No change.*
- (2) Designation. Wetlands shall be identified and designated through a site visit and/or a site assessment ~~utilizing the definitions, methods and standards set forth in the Washington State Wetland Identification and Delineation Manual, Department of Ecology publication No. 96-94 in compliance with WAC 173-22-035.~~

14.24.210 Wetlands classification.

Wetlands shall be rated according to the Washington State Wetland Rating System for Western Washington 2014 Update (Department of Ecology ~~2004~~ Publication no. 14-06-029). This document contains the definitions, methods and a rating form for determining the categorization of wetlands below:

(1) – (4) No change.

14.24.220 Wetlands site assessment requirements.

Any proposed high intensity-impact land use as defined in Table 8C-3 of Department of Ecology publication No. 05-06-008 within 300 feet of wetland indicators, and any other proposed land use within 225 feet of wetland indicators, requires a wetlands site assessment. In addition to the requirements of SCC 14.24.080, the following shall be included in a wetlands site assessment:

Commented [A1]: This is our defined term, different from the ECY definition.

(1) – (5) No change.

14.24.230 Wetland protection standards.

(1) Wetland Buffer Widths.

(a) Standard Wetland Buffers. Standard buffers are based on land use intensity-impacts defined in Department of Ecology publication No. 05-06-008, Wetlands in Washington State, Volume 2, Appendix 8C. The following standard buffers shall be required for regulated wetlands unless otherwise provided for in this Section:

Wetland Rating	Standard Buffers		
	<u>Intensity</u>	<u>Land Use</u>	<u>Impact</u>
Category I	Low	Moderate	High
Category II	150 feet	225 feet	300 feet
Category III	75 feet	110 feet	150 feet
Category IV	25 feet	40 feet	50 feet

(b) Optional Wetland Buffers. The applicant may choose to have the following optional wetland buffers in Section 8C.2.3 (as updated in 2014) of Department of Ecology publication No. 05-06-008, Wetlands in Washington State, Volume 2 apply in place of the standard buffers in Subsection (1)(a) of this Section, provided a site assessment is completed by a qualified professional pursuant to SCC 14.24.080. Habitat score is one of three elements used to determine the wetland rating as described in SCC 14.24.200.

<u>Wetland Rating</u>	<u>Habitat Score</u>	<u>Land Use Impact</u>		
		<u>Low</u>	<u>Moderate</u>	<u>High</u>
<u>Category I</u>		<u>Standard Buffers only</u>		
<u>Category II</u>	<u>8-9</u>	<u>150'</u>	<u>225'</u>	<u>300'</u>
	<u>5-7</u>	<u>75'</u>	<u>110'</u>	<u>150'</u>
	<u>≤5</u>	<u>50'</u>	<u>75'</u>	<u>100'</u>
<u>Category III</u>	<u>8-9</u>	<u>150'</u>	<u>225'</u>	<u>300'</u>
	<u>5-7</u>	<u>75'</u>	<u>110'</u>	<u>150'</u>

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	<5	40'	60'	80'
Category IV	Standard Buffers only			

Optional Buffers		
-	Intensity	
Habitat Score	Moderate	High
31 or higher	225 feet	300 feet
30	200 feet	270 feet
29	175 feet	240 feet
28	155 feet	210 feet
27	135 feet	180 feet
26	115 feet	150 feet
25	105 feet	136 feet
24	95 feet	124 feet
23	85 feet	112 feet
22 or lower	75 feet	100 feet

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- (2) – (3) *No change.*
- (4) Any person who alters or proposes to alter regulated wetlands shall reestablish, create, rehabilitate and/or enhance areas of wetland in order to compensate for wetland losses [at the ratios described in mitigation ratios for projects in western Washington in Table 8C-11 \(as updated in 2014\) in Department of Ecology publication No. 05-06-008, Wetlands in Washington State, Volume 2, Section 8C.2.3.](#) ~~The following ratios in the tables below apply to reestablishment, creation, rehabilitation or enhancement which is in-kind (i.e., the same type of wetland), on-site and accomplished prior to or concurrently with loss. The first number specifies the acreage of wetlands to be reestablished, created, rehabilitated or enhanced and the second specifies the acreage of wetlands lost:~~

~~(a) — Wetland Reestablishment/Creation Ratios:~~

Wetland Area Reestablished/Created: Wetland Area Lost	
Category I	6:1
Category II or III	-
—Forested	3:1
—Scrub/shrub	2:1
—Emergent	2:1
Category IV	1.5:1

~~(b) — Wetland Rehabilitation Ratios:~~

Wetland Area Rehabilitated: Wetland Area Lost	
Category I	12:1
Category II	6:1
Category III	4:1
Category IV	3:1

~~(c) — Wetland Enhancement Ratios:~~

Wetland Area Enhanced: Wetland Area Lost	
Category I	24:1
Category II	12:1
Category III	8:1
Category IV	6:1

~~(d) — If a type and/or combination of mitigation is not mentioned in the tables above, Table 8C-11 of Department of Ecology publication No. 05-06-008 shall be used.~~

- (5) *No change.*
- (6) Category III and IV wetlands less than 4,000 square feet that have been identified through a site assessment may be exempted or partially exempted from the provisions of this Chapter and may be altered by filling or dredging as outlined below.
 - (a) Category III and IV wetlands less than 1,000 square feet are exempt from County regulation where:
 - (i) The wetland is isolated; and
 - (ii) The wetland is not associated with a riparian corridor; and
 - (iii) The wetland is not part of a wetland mosaic, as described ~~by the Department of Ecology in publication No. 04-06-025~~ [in the Washington State Wetland Rating System for Western Washington \(Department of Ecology Publication no. 14-06-029\)](#); and
 - (iv) The wetland does not contain Department of Fish and Wildlife-designated priority species or habitat identified as essential for local populations of priority species.
 - (b) Category III and IV wetlands between 1,000 and 4,000 square feet may be exempted from the mitigation sequencing requirement to first avoid impacts where:
 - (i) The wetland meets the criteria listed in Subsection (6)(a) of this Section; and
 - (ii) The project impacts are fully mitigated.

14.24.240 Wetland performance-based buffer alternatives and mitigation standards.

Buffer widths may be increased, decreased or averaged in accordance with the following provisions. All mitigation proposed shall be consistent with State and Federal wetland regulations.

- (1) Buffer Width Increasing. The Administrative Official may require the standard or optional buffer width to be increased by the distance necessary to protect wetland functions and provide connectivity to other wetland and habitat areas for 1 of the following:
 - (a) *No change.*
 - (b) *No change.*
 - (c) When a Category I or II wetland is located within 300 feet of:
 - (i) Another Category I, II or III wetland; or
 - (ii) A fish and wildlife HCA; or
 - (iii) A Type S or F stream; or
 - (iv) A high ~~intensity-impact~~ land use that is likely to have additional impacts.
- (2) *No change.*
- (3) Buffer Width Decreasing. Prior to considering buffer reductions, the applicant shall demonstrate application of mitigation sequencing as required in SCC 14.24.080. In all circumstances where a substantial portion of the remaining buffer is degraded, the buffer reduction plan shall include replanting with native vegetation in the degraded portions of the remaining buffer area and shall include a 5-year monitoring and maintenance plan.
 - (a) High ~~intensity-impact~~ land use projects may apply moderate intensity buffers if measures to minimize impacts to wetlands from high ~~intensity-impact~~ land uses are implemented. Some of the measures that may be used can be found in Department of Ecology publication No. 05-06-008, Wetlands in Washington State, Volume 2, Appendix 8C ([as updated in 2014](#)).
- (4) *No change.*
- (5) *No change.*
- (6) Allowed Uses in Wetlands or Wetland Buffers. The following activities may be permitted within wetlands or their buffers but shall comply with SCC 14.24.080 and 14.24.220:
 - (a) *No change.*
 - (b) *No change.*
 - (c) Stormwater discharges to wetlands shall be controlled and treated in accordance with the Stormwater Management Manual ~~for Western Washington, Department of Ecology publication No. 05-10-029 through No. 05-10-033.~~

14.24.310 Aquifer recharge areas designations.

No change.

- (1) *No change.*
 - (a) *No change.*
 - (i) *No change.*
 - (ii) *No change.*

(iii) Areas designated as “wellhead protection areas” pursuant to Chapter 246-290 WAC and the groundwater contribution area ~~in WAC 246-291-100~~, or otherwise recognized by the Health Officer or Administrative Official as needing wellhead protection. Wellhead protection areas shall, for the purpose of this regulation, include the identified recharge areas associated with:

(iv) *No change.*

(b) *No change.*

(c) *No change.*

(2) *No change.*

14.24.400 Geologically hazardous areas designations.

Geologically hazardous areas shall be designated consistent with the definitions provided in WAC ~~365-190-080(4)~~ [365-190-030](#) and [365-190-120](#). These include areas susceptible to the effects of erosion, sliding, earthquake, or other geologic events. They pose a threat to the health and safety of citizens when incompatible residential, commercial, industrial, or infrastructure development is sited in areas of a hazard. Geologic hazards pose a risk to life, property, and resources when steep slopes are destabilized by inappropriate activities and development or when structures or facilities are sited in areas susceptible to natural or human-caused geologic events. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction practices so that risks to health and safety are acceptable. When technology cannot reduce risks to acceptable levels, building and other construction in, above and below geologically hazardous areas should be avoided.

14.24.430 Geologically hazardous area mitigation standards.

No change.

(1) Mitigation Standards.

(a) ~~A temporary erosion and sedimentation control plan prepared in accordance with the requirements of~~ [Construction Stormwater Pollution Prevention Plan per](#) Chapter 14.32 SCC (Stormwater Management), ~~as amended.~~

(b) ~~A drainage~~ plan for the collection, transport, treatment, discharge and/or recycling of [storm](#) water in accordance with the requirements of Chapter 14.32 SCC, as amended. Surface drainage shall not be directed across the face of a landslide hazard (including marine bluffs or ravines). If drainage must be discharged from the hazard area into adjacent waters, it shall be collected above the hazard and directed to the water by tight line drain and provided with an energy dissipating device at the point of discharge.

(c) – (i) *No change.*

(2) – (4) *No change.*

14.24.500 Fish and wildlife habitat conservation area designations.

(1) Fish and wildlife habitat conservation areas (HCAs) are listed in WAC ~~365-190-080(5)~~ [365-190-130](#) and are designated as follows:

(a) – (d) *No change.*

- (e) Naturally occurring ponds under 20 acres with submerged aquatic beds that provide fish or wildlife habitat [as further defined in WAC 365-190-130\(4\)\(e\)](#);
- (f) – (l) *No change*.

S-3 EV Charging Stations

14.04.020 Definitions.

Add the following definitions:

Vehicle charging station: a facility for the charging of vehicles designed for operation on ordinary roads carrying passengers or larger cargo, including a battery exchange station as defined in RCW 36.70A.695, as amended.

Vehicle fueling station: a facility for the fueling of vehicles designed for operation on ordinary roads carrying passengers or larger cargo.

Modify the following paragraphs in Chapter 14.06:

14.16.100 Rural Village Commercial (RVC).

- (2)(d): ~~Gas~~ [Vehicle charging station and vehicle fueling](#) stations;
- (2)(w)(ix)(C): ~~Gas~~ [Vehicle charging station and vehicle fueling](#) stations;

14.16.110 Rural Center (RC).

- (2)(d): ~~Gas~~ [Vehicle charging station and vehicle fueling](#) stations.

14.16.120 Rural Freeway Service (RFS).

- (2)(a): ~~Gas and fueling~~ [Vehicle charging station and vehicle fueling](#) stations, vehicle repair garages and car washes;

14.16.130 Small Scale Recreation and Tourism (SRT).

- [\(2\)\(z\): Vehicle charging station;](#)

14.16.140 Small Scale Business (SSB).

- [\(2\)\(j\): Vehicle charging station;](#)

14.16.150 Rural Business (RB).

- [\(2\)\(j\): Vehicle charging station;](#)

14.16.170 Rural Marine Industrial (RMI).

- [\(2\)\(i\): Vehicle charging station;](#)

14.16.175 Hamilton Industrial (H-I).

- [\(2\)\(j\): Vehicle charging station;](#)

14.16.180 Bayview Ridge Light Industrial (BR-LI).

[\(2\)\(dd\): Vehicle charging and vehicle fueling station;](#)

14.16.190 Bayview Ridge Heavy Industrial (BR-HI).

[\(2\)\(dd\): Vehicle charging and vehicle fueling station;](#)

14.16.195 Urban Reserve Commercial-Industrial (URC-I).

(2)(e): ~~Gasoline service~~ [Vehicle charging and vehicle fueling](#) stations and automobile repair garages conducted inside a building.

14.16.200 Aviation Related (AVR).

[\(2\)\(t\): Vehicle charging station;](#)

S-4 Time Limits for Preliminary Subdivision

14.18.100 Preliminary subdivisions.

No change.

- (1) – (5) *No change.*
- (6) Preliminary Subdivision Approval Duration.
 - (a) Preliminary short subdivision approvals shall be valid for 36 months.
 - (b) Preliminary long subdivision approvals shall be valid for ~~60 months~~ [the time period listed in RCW 58.17.140, as amended.](#)
 - (c) If any condition is not satisfied and the final subdivision is not recorded within the approval period, the preliminary plat approval shall be null and void.
 - (d) If the final plat is being developed in phases, the initial phase must be recorded within the approval period, or the subdivision is null and void. Additional phases may continue to have validity, based on a phasing schedule established by the preliminary approval.
 - (e) Any applicant who has received preliminary short or long subdivision approval on or before September 1, 2011, who submits a request for extension in writing to the Administrative Official at least 30 days before the preliminary approval expiration date may be granted a 1-year extension of the preliminary approval by the Administrative Official or designee upon a showing that the applicant has attempted in good faith to submit the final subdivision within the preliminary approval period set forth in Subsections (6)(a) and (b) of this Section. Only 5 such extensions shall be allowed. The Administrative Official's decision on a plat extension request is appealable as a Level I decision pursuant to Chapter 14.06 SCC.
- (7) *No change.*

S-5 Impact Fees [not included]

This item was already accomplished in a prior code update.

S-6 SMP Update [not included]

This item is being developed through a separate process.

C-1 Vesting of Applications

14.02.050 Vesting of applications.

- (1) An application for a ~~development permit~~ building permit or land division, ~~to be processed under Chapter 14.06 SCC or the Skagit County Shoreline Management Master Program, Chapter 14.26 SCC,~~ vests at such time as a complete application is filed with Planning and Development Services and all required permit fees are paid, consistent with RCW 19.27.095(1) and RCW 58.17.033(1). An application is “complete” on the date a complete application is filed, as subsequently determined in the letter of completeness issued pursuant to SCC 14.06.100. An application vested under this Subsection is not subject to any laws or regulations which become effective after the date of vesting, except as provided below.
- (2) - (5) *No change.*

C-2 through C-6 Comprehensive Plan and UGA Boundary Amendments

14.04.020 Definitions.

The following definitions are added:

Comprehensive Plan Periodic Update: the review, and if needed, update of the Comprehensive Plan required at multi-year intervals by RCW 36.70A.130.

SCC sections 14.08.020-060 are repealed and replaced with the following:

14.08.020 Comprehensive Plan, Zoning Map, or Development Regulations—Amendments.

- (1) An amendment to the Comprehensive Plan or the zoning map requires a petition; docketing by the Board of County Commissioners; public hearing, review, and recommendation by the Planning Commission; and final approval by the Board of County Commissioners.
- (2) A petition is one or more of the following types:
 - (a) an amendment to Comprehensive Plan policies;
 - (b) an amendment to the Comprehensive Plan map;
 - (c) a rezone permitted by an existing Comprehensive Plan map designation; and
 - (d) an amendment to development regulations.
- (3) All amendments to the Comprehensive Plan map require a simultaneous rezone.
- (4) Each petition type above is a legislative matter, except a rezone that is permitted by an existing Comprehensive Plan designation and does not require a simultaneous amendment to the Comprehensive Plan is a quasi-judicial matter.

- (5) The County must adopt all amendments to the Comprehensive Plan simultaneously each year, and may not adopt amendments more frequently than once per year, except for amendments that qualify for one of the exceptions in RCW 36.70A.130(2)(a).
- (6) The Board may accept petitions for development regulation amendments as part of the annual docketing process, or may itself initiate the process of adopting or amending development regulations at any time.

14.08.030 Petitions—Filing requirements.

- (1) Who may file.
 - (a) Any interested person or entity may file any petition except a petition to modify a UGA boundary, or the Comprehensive Plan map within a UGA.
 - (b) A petition to modify a UGA boundary, or the Comprehensive Plan map within a UGA, may be filed only by the affected jurisdiction (city/town for municipal UGA, tribe for tribal UGA, Skagit County for the Bayview Ridge UGA).
- (2) When to file.
 - (a) A petition must be submitted on or before the last business day of July, except that a County-initiated petition is not subject to this deadline.
 - (b) A petition for a rezone, or for a map amendment not involving a UGA boundary change, may be considered only once between each Comprehensive Plan Periodic Update unless the applicant demonstrates a substantial change in circumstances. In no case may a petition be considered in consecutive years.
 - (c) A petition for a map amendment involving a change to a given UGA's boundary may be considered only once between each Comprehensive Plan Periodic Update, unless the applicant demonstrates one or more of the following:
 - (i) the boundary change is necessary to make minor technical corrections to a UGA boundary (without increasing the UGA's buildable land development capacity by more than 1%) due to a mapping error or to be more consistent with identifiable physical boundaries such as natural features, roads, or special purpose districts;
 - (ii) the boundary change is the result of an emergency Comprehensive Plan amendment by the affected jurisdiction in accordance with RCW 36.70A.130(2)(b);
 - (iii) the boundary change is necessary to comply with changes to State or Federal laws, regulations or standards;
 - (iv) the boundary change is required as part of a compliance order from the Western Washington Growth Management Hearings Board or court of higher authority;
 - (v) the boundary change will permanently preserve a substantial land area containing one or more significant natural or cultural feature(s) as open space (including, but limited to, landforms, rivers, bodies of water, historic properties, archaeological resources, unique wildlife habitat, and fish and wildlife conservation areas), as determined by the respective legislative bodies of the County and the municipality or municipalities immediately adjacent to the

proposed expansion, will provide separation between urban and rural areas, and will not result in a significant increase to population or employment capacity;

- (vi) there is less than 50% remaining of the vacant and buildable land base (residential, commercial, or industrial, respectively) that was designated within the incorporated and unincorporated areas of the particular UGA based on the last residential population and/or commercial/industrial land sub-allocation, or through any subsequent expansion of the UGA boundaries;
 - (vii) the inability to reach the 50% threshold is accounted for by one or more of the following:
 - (A) a small number of parcels within the UGA that account for a significant portion of remaining buildable lands for which it can be clearly demonstrated that they are not likely to develop in the planning horizon of the existing boundary;
 - (B) an assessment that concludes there is a deficiency of larger parcels within that UGA to accommodate the remaining commercial or industrial growth projected for that UGA;
 - (C) other documented local circumstances that relate to the land market factors relevant to UGA expansion or reduction;
 - (D) the expansion will allow the development of a school, K-12, public or private and the expansion area is adjacent to an existing UGA and will be designated and zoned exclusively for that use and will not add any residential, commercial, or industrial capacity to the affected UGA.
- (3) How to file.
- (a) A petition must be filed with the Department on forms provided by the Department.
 - (b) A petition must be filed with all fees required by the adopted fee schedule.
 - (c) A County-initiated petition does not require a written petition or fees.
- (4) Contents of petition.
- (a) A petition for amendment of the Comprehensive Plan, or for amendment of the development regulations, must include the following:
 - (i) a detailed statement of what is proposed to be changed and why;
 - (ii) a statement of anticipated impacts to be caused by the change, including geographic area affected and issues presented;
 - (iii) a demonstration of why existing Comprehensive Plan policies should not continue to be in effect or why existing policies no longer apply;
 - (iv) a statement of how the amendment complies with the Comprehensive Plan's community vision statements, goals, objectives, and policy directives;
 - (v) a statement of how adopted functional plans and Capital Facilities Plans support the change;

- (vi) a statement of how the change affects implementing development regulations in SCC Title 14 and the necessary changes to bring the implementing development regulations into compliance with the plan;
- (vii) a summary of any public review of the recommended change.
- (b) A petition for a rezone or amendment of the Comprehensive Plan map must also include a detailed description of how the map amendment complies with:
 - (i) the land use designation criteria in the Comprehensive Plan; and
 - (ii) approval criteria for map amendments and rezones in SCC 14.08.060;
- (c) A petition for amendment of the Comprehensive Plan map to a commercial or industrial designation (other than a petition for a change in a UGA boundary) must also include:
 - (i) a detailed development proposal that is consistent with the applicable designation criteria; and
 - (ii) a 1-inch equals 100 feet map showing the subject property and property lines and land use designations for all properties within 500 feet of the site.
- (d) A petition for amendment of the Comprehensive Plan map to a Master Planned Resort designation must also include all of the elements required by SCC 14.20.050.
- (e) A petition for a rezone or amendment of the Comprehensive Plan map to a new Small-Scale Recreation and Tourism designation must also include:
 - (i) a site plan showing the location of all uses;
 - (ii) a demonstration that the location of the Small-Scale Recreation or Tourism uses is based upon the scenic and/or natural features of the land that support the need for a rural location and setting;
 - (iii) a demonstration that the proposed expansion of an existing recreational or tourist use is a logical expansion and is compatible with existing uses on the site;
 - (iv) measures to protect or minimize adverse impacts on prime soils, drainage, traffic generation, visual impact, noise, and other relevant criteria, and to preserve the existing rural character of the area;
 - (v) measures to ensure the protection of critical areas, as provided in RCW 36.70A.060, frequently flooded areas, and surface water and ground water resources including sole source aquifers;
 - (vi) measures to ensure protection from conflicts with the use of agriculture, forest, and mineral resource lands of long-term commercial significance designated under RCW 36.70A.170;
 - (vii) measures to protect or mitigate adverse impacts on Rural Intermediate, Urban Growth Areas, or Rural Village Residential-designated lands.

14.08.040 Petitions—Docketing.

- (1) The Department must review all new petitions and any petitions deferred from the previous year's docket, and forward a recommendation to the Board as to which petitions should be included in the next year's docket.

- (2) In making its docket recommendation, the Department must consider whether:
 - (a) the petition complies with the filing requirements;
 - (b) the petition, in light of all proposed amendments being considered for inclusion in the year's docket, can be reasonably reviewed within the staffing and operational budget allocated to the Department by the Board;
 - (c) the proposed amendment, to be adopted, would not require additional amendments to the Comprehensive Plan or development regulations not addressed in the application, and is consistent with other goals, objectives and policies adopted by the Board;
 - (d) the proposed amendment raises policy, land use, or scheduling issues that would more appropriately be addressed as part of an ongoing or planned work program, or as part of a regular review cycle;
 - (e) some legal or procedural flaw in the petition would prevent its legal implementation; or
 - (f) the petition lacks sufficient information or adequate detail to review and assess whether or not the proposal meets the applicable approval criteria. A determination that the proposal contains sufficient information and adequate detail for the purpose of docketing does not preclude the Department from requesting additional information at any later time.
- (3) Following receipt of the Department's docket recommendation, the Board must hold a public hearing to allow applicants and the public to comment on the Department's recommendation. The Board must subsequently consider the Department's recommendation and the public comment and decide which petitions to include as part of the annual docket.
- (4) The Board must include, exclude, or defer each petition.
 - (a) Include. The Board's decision to include a petition in the docket is procedural only and does not constitute a decision by the Board as to whether the amendment will ultimately be approved.
 - (b) Exclude. The Board's decision to exclude a petition from the docket terminates the petition without prejudice to the applicant or the proposal. The applicant may request a refund of the unused portion of any application fees, and may request the same, or similar amendment as part of a future amendment or review cycle.
 - (c) Defer. The Board's decision to defer a petition means the petition may be considered for docketing in the next annual amendment cycle.
- (5) The petitions included in the docket must be processed according to the remaining sections of this Chapter, including public review and comment and Planning Commission recommendation, and final Board action to approve, approve with modifications, defer to a subsequent amendment cycle, or deny each petition.

14.08.050 Petitions—Environmental review.

- (1) After the Board establishes the year's docket of Comprehensive Plan amendments, the County must complete environmental review of all of the proposed amendments, consistent with the requirements of RCW Chapter 43.21C and SCC Chapter 16.12. For a site-specific Comprehensive Plan amendment, the applicant must submit a complete environmental checklist to the County and required fees.

- (2) After receipt and review of the environmental checklist(s) for each of the docketed Comprehensive Plan amendments, the Department must issue threshold determination(s) on the docket of amendments.
- (3) Any environmental review must consolidate, as much as practical, site-specific SEPA review with review of the entire docket of proposed Comprehensive Plan amendments to ensure adequate consideration of cumulative effects of the proposed amendments.
- (4) A petition that is carried over from a previous year's docket to the next docket does not require a new SEPA checklist and fee, and is not required to be considered in the same environmental document as other proposals in the same docket. However, the Department may require additional SEPA analysis to assess the cumulative impacts of the various proposals constituting a docket.

14.08.060 Petitions—Approval Criteria for Map Amendments and Rezones.

- (1) A rezone or amendment of the Comprehensive Plan map must be consistent with the requirements of the Skagit County Comprehensive Plan, including any applicable designation criteria.
- (2) A change to a rural or natural resource land map designation must also be supported by and dependent on population forecasts and allocated non-urban population distributions, existing rural area and natural resource land densities and infill opportunities.
- (3) A change from a natural resource land map designation must also recognize that natural resource land designations were intended to be long-term designations and must be supported by and dependent on one or more of the following:
 - (a) a change in circumstances pertaining to the Comprehensive Plan or public policy;
 - (b) a change in circumstances beyond the control of the landowner pertaining to the subject property;
 - (c) an error in initial designation;
 - (d) new information on natural resource land or critical area status.
- (4) A change to a UGA boundary must be supported by and dependent on the following analyses:
 - (a) population forecasts and allocated urban population distributions, existing urban densities and infill opportunities, phasing and availability of adequate services, proximity to designated natural resource lands and the presence of critical areas.
 - (b) documented consistency of the proposed UGA expansion with Countywide Planning Policy 1.1 and the adopted 20-year population and employment allocation, including identification of any allocated but undesignated forecast population or employment.
 - (c) planning and analysis sufficient to update and confirm the development capacity analysis for buildable land within the existing UGA for residential, commercial, and/or industrial lands, which takes into account all development approved within the overall UGA since the last UGA expansion. Minimum requirements for UGA buildable lands development capacity analyses include the following steps:
 - (i) Define vacant and underutilized (but likely to redevelop) parcels by zone.

- (ii) Deduct from the gross land capacity by zone the following lands not available to accommodate future population or employment:
 - (A) critical areas (and buffers as appropriate);
 - (B) future roads/rights-of-way needs;
 - (C) future public or quasi-public facilities needs;
 - (D) remaining lands likely to be held off-the-market (e.g., market or other factors).
- (iii) Apply the minimum (or average achieved) density or intensity of use in each zone to the remaining net developable acres.
- (iv) Apply appropriate household size and/or employee land intensity standards to the output to determine total UGA population or employment capacity.
- (d) a comparative evaluation of potential areas for UGA expansion, including:
 - (i) planning and zoning regulations currently in place;
 - (ii) an evaluation of how a full range of urban-level infrastructure and services would be provided within potential expansion areas, including appropriate capital facility analysis; and
 - (iii) an evaluation of reasonable alternatives, other than expanding the UGA, to accommodate the forecast UGA population or employment allocation, including consideration of development regulation amendments to allow for increased densities and intensities of use in the existing UGA. Consideration of reasonable alternatives to UGA expansion must be within the discretion afforded to local governments by RCW 36.70A.110(2) to make choices about accommodating growth.
- (e) documentation of the proposed UGA expansion for consistency with any applicable inter-local agreement between the affected municipality and the County.
- (f) a review of the planning and zoning regulations and any incentive programs in place to determine expected densities in the existing UGA consistent with the GMA, as interpreted by the Growth Management Hearings Board, and the adopted Comprehensive Plan.
- (5) A change to a UGA boundary must meet the following requirements:
 - (a) Sufficient land area must be included in the UGAs to accommodate the adopted 20-year population and employment forecast allocation in Countywide Planning Policy 1. The extent of a UGA boundary expansion must be sufficient to provide a minimum 10- and a maximum 20-year supply of vacant and buildable lands within the UGA.
 - (b) In evaluating potential changes to a particular UGA boundary, the County must consider Countywide implications for other UGAs and their population and employment sub-allocations.
 - (c) In cases of residential lands proposed for inclusion within a UGA, annexation or incorporation should be encouraged to occur if immediately feasible, or an interlocal agreement must be executed between the municipality and County regarding the timing and conditions of future annexation and provision of urban services.

- (d) The UGA expansion may not include areas that are designated as natural resource lands (agricultural, forest, or rural resource) unless:
 - (i) The jurisdiction has an adopted transfer of development rights program in place and an agreement with the property owner(s) that will allow for continuation of the natural resource land activities on said lands following UGA designation; or
 - (ii) Said lands have been re-designated to an appropriate non-resource land use designation consistent with the applicable provisions of the Skagit County Comprehensive Plan, Skagit County Code, and Chapter 36.70A RCW.
- (e) The County and petitioner must conduct early and continuous public involvement when establishing, expanding, or adjusting UGAs, and must do so jointly when appropriate. Residents and property owners of unincorporated areas shall be consulted and actively involved in the process affecting them.
- (f) The County must make best efforts to coordinate UGA boundary change proposals with the affected municipality(ies), including the preparation of joint staff recommendations where possible. Unless waived by the affected municipality(ies), such municipality(ies) must be given at least 60 days' notice of the proposal prior to a County hearing thereon.

C-7 Cleanup: Watershed Management

14.16.410 Industrial Forest—Natural Resource Lands (IF-NRL).

- (1) Purpose. *No change.*
- (2) Applicability. *No change.*
- (3) Permitted Uses.
 - (a) – (n) *No change.*
 - ~~(e) Watershed management, but not including water diversion structures, impoundment dams or hydroelectric generation facilities.~~
 - ~~(p)~~ (o) Maintenance, drainage.
 - ~~(q)~~ (p) Net metering system, solar.
 - ~~(r)~~ (g) Repair, replacement and maintenance of water lines with an inside diameter of 8 inches or less.
- (4) Administrative Special Uses. *No change.*
- (5) Hearing Examiner Special Uses. *No change.*
- (6) Dimensional Standards. *No change.*
- (7) *No change.*

14.16.420 Secondary Forest—Natural Resource Lands (SF-NRL).

- (1) Purpose. *No change.*
- (2) Permitted Uses.
 - (a) – (p) *No change.*

~~(q)~~ — Watershed management, but not including water diversion structures, impoundment dams or hydroelectric generation facilities.

~~(r)~~(g) Maintenance, drainage.

~~(s)~~(r) Net metering system, solar.

~~(t)~~(s) Repair, replacement and maintenance of water lines with an inside diameter of 8 inches or less.

- (3) Administrative Special Uses. *No change.*
- (4) Hearing Examiner Special Uses. *No change.*
- (5) Dimensional Standards. *No change.*
- (6) *No change.*

C-8 Cleanup: Tasting Rooms

14.16.100 Rural Village Commercial (RVC).

- (1) Purpose. *No change.*
- (2) Permitted Uses.
 - (a)-(v) *No change.*
 - (w) In the Rural Village Commercial zone in Alger, the permitted uses shall be limited to the following:
 - (i)-(viii) *No change.*
 - (ix) Small retail and service businesses, including, but not limited to:
 - (A)-(J) *No change.*
 - ~~(K)~~ Tasting rooms.
- (3)-(5). *No change.*

C-9 CaRD Density Shifting

SCC 14.18.300 Conservation and Reserve Developments (CaRDs)—An alternative division of land.

A Conservation and Reserve Development (CaRD) is a method of single-family residential land development characterized by building lots or envelopes that are much smaller than typical of the zone, leaving open space for agriculture, forestry, continuity of ecological functions characteristic of the property, and preservation of rural character. This results in reduced impervious surface area and lowered costs of development and maintenance. Certain requirements of the zone may be modified when using the CaRD process, as specifically stated in the CaRD provisions.

- (1) Purpose. *No change.*
- (2) Applicability.
 - (a) A CaRD is an overlay permit, which must be accompanied by a land division permit (either a subdivision or a binding site plan developed as a condominium).
 - (b) CaRD approvals allow variations in the underlying zoning regulations but are not intended as and do not constitute rezoning. [Where land proposed to be part of a CaRD](#)

[includes two or more zoning designations, development rights may not be moved from a higher density zone to a lower density zone.](#)

- (c) CaRDs are permitted in the following zones: [No change]
- (3) Additional Submittal Requirements. *No change.*
- (4) Process. *No change.*

C-10 Unclassified Uses/Essential Public Facilities

14.04.020 Definitions.

Essential public facilities: those facilities that are typically difficult to site, such as airports, State education facilities and State or regional transportation facilities as defined in RCW 47.06.140, State and local correctional facilities, solid waste handling facilities, and inpatient facilities, including substance abuse facilities, mental health facilities, and group homes.

14.06.010 Intent.

The intent of this Chapter is to combine and consolidate the application, review, and approval processes for development permits as defined by Chapter 14.04 SCC. In addition, this Chapter is intended to establish roles and responsibilities of the Administrative Official, Hearing Examiner, ~~Planning Commission~~, and Board of County Commissioners relating to development permits. It is further intended to comply with State guidelines for combining and expediting development review and integrating environmental review. Procedures for review and approval of Comprehensive Plans, subarea plans, functional plans, development regulations, open space, open space current use applications, and amendments thereto shall be governed by the provisions of Chapter 14.08 SCC and not this Chapter. For development permits that require or propose an amendment to a plan or development regulation, the amendment shall first be processed pursuant to the requirements of Chapter 14.08 SCC and, if/once that amendment has been approved, the balance of the development permit decisions shall be processed pursuant to the provisions of this Chapter. Procedures for review of interpretations of the provisions of the adopted building codes and fire codes, as may be amended, shall be governed by Chapter 15.16 SCC and not this Chapter; provided, that the County's decision to issue, to condition or to deny a building permit pursuant to any of the requirements of SCC Title 14 shall be governed by this Chapter.

14.06.050 Application level.

- (1) Applications for development permits and other administrative determinations shall be categorized as 1 of 4 levels as follows; provided, that shoreline applications shall be processed as described in the Skagit County Shoreline Management Master Program:
 - (a) *No change.*
 - (b) Level II. Level II applications are those applications that require an open record pre-decision hearing level before the Hearing Examiner and for which the Hearing Examiner decision is final, unless that decision is appealed to the Board in a closed record appeal. Level II applications include:
 - (i) Hearing Examiner variances pursuant to SCC 14.10.020(3).
 - (ii) Hearing Examiner special use permits.

- (iii) Forest Practices Act waivers for other than single-family residential development.
- (iv) Request from the County or another party to review or interpret a previously issued land use permit or land use approval that required a public hearing by any County entity or Board, including, but not limited to, conditional uses, special uses and variances for the purpose of considering possible revocation, suspension, clarification or modification.
- (v) Hearing Examiner URDP pursuant to SCC 14.16.910(2).
- (vi) Review of preliminary long subdivisions which contain between 9 and 50 lots, tracts or parcels on contiguous land under the same ownership pursuant to Chapter 14.18 SCC.
- (vii) Review of binding site plans that contain between 9 and 50 lots, tracts, parcels or units on contiguous land under the same ownership pursuant to Chapter 14.18 SCC.

~~(viii) Recommendations on development agreements involving 50 or less fewer lots or residential dwelling units or 50,000 square feet or less of commercial or industrial building space.~~

(viii) Local essential public facilities per SCC 14.16.600.

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- (c) Level III. Level III applications are those applications that require an open record pre-decision hearing before the Hearing Examiner ~~("Level III HE") or before the Planning Commission ("Level III PC"),~~ and for which the Hearing Examiner ~~or Planning Commission action is~~ makes only a recommendation. The Board of County Commissioners shall make the final decision after a closed record hearing ~~on the Level III HE actions. The Hearing Examiner shall make the final decision after a closed record hearing on Level III PC actions.~~

~~(i) Level III HE.~~

~~(A)(i)~~ (i) Board of County Commissioners' variances pursuant to SCC 14.10.020(2) and 14.16.860, Agricultural land preservation.

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~~(B)(ii)~~ (ii) Preliminary long subdivisions containing more than 50 lots, tracts or parcels on contiguous land under the same ownership pursuant to Chapter 14.18 SCC.

~~(C)(iii)~~ (iii) Binding site plans that contain more than 50 lots, tracts, parcels or units pursuant to Chapter 14.18 SCC.

~~(D)(iv)~~ (iv) Development agreements ~~of more than 50 lots or residential dwelling units or more than 50,000 square feet of commercial or industrial building space.~~

~~(E)(v)~~ (v) Other recommendations as requested by the Board.

(vi) Regional essential public facilities per SCC 14.16.600.

~~(ii) (ii) Level III PC.~~

~~(A) Recommendations as requested by the Hearing Examiner.~~

- (d) Level IV. Level IV applications are those development permit applications that do not require a public hearing, but require a final decision by the Board of County

Commissioners. Level IV applications include: final long subdivisions pursuant to Chapter 14.18 SCC.

14.06.130 Level III review procedures.

- (1) Pre-development meetings described in SCC 14.06.080(1) are optional.
- (2) Pre-application meetings described in SCC 14.06.080(2) are required before filing an application, unless the Administrative Official has approved a waiver of the pre-application meeting.
- (3) Letter of completeness review procedures from SCC 14.06.100 are required.
- (4) The Notice of Development Application and comment period procedures of SCC 14.06.150(3)(b) through (e) are required.
- (5) Before an application has been set for open record public hearing before the Hearing Examiner ~~or the Planning Commission~~, and after the close of any required comment period, including any threshold determination comment period required by Chapter 43.21C RCW and Chapter 14.12 SCC, the Department shall coordinate and assemble the comments and recommendations of other County departments and governmental agencies having an interest in the subject application and shall prepare a staff report summarizing the factors involved, including the Department findings and supportive recommendations. The staff report shall be filed with the Hearing Examiner ~~or the Planning Commission~~ at least 7 days prior to the scheduled hearing and copies thereof shall be mailed to the applicant and shall be made available for use by any interested party at the reproduction cost.
- (6) Notice of public hearing shall be as required by SCC 14.06.150(3).
- (7) The Hearing Examiner ~~or the Planning Commission~~ shall conduct review of the development permit in an open record pre-decision hearing, pursuant to the requirements for those hearings in SCC 14.06.160.
- (8) After conducting the open record hearing, the Hearing Examiner ~~or the Planning Commission~~ shall prepare a recommendation to the Board in writing that shall include findings of fact and conclusions based on those facts. The recommendation may include such conditions, modifications and restrictions the Hearing Examiner ~~or the Planning Commission~~ deem necessary to carry out the objectives and goals of the Comprehensive Plan, the Zoning Ordinance, the Subdivision Ordinance, and other codes and ordinances of Skagit County. Each recommendation shall be transmitted to the Board and mailed to the applicant and all parties of record within 14 days following conclusion of all hearings or the date for submittal of all written comment, whichever is later, unless a longer period is mutually agreed to in writing by the applicant. ~~For Level III Planning Commission recommendations, the Planning Commission recommendation shall be by recorded motion and shall be by affirmative vote of not less than a majority of the total members.~~
- (9) ~~Upon~~ After receiving a recommendation from the Hearing Examiner ~~or Planning Commission~~, the Board shall, ~~at its next regular public meeting set the date for~~ hold a closed record hearing pursuant to the requirements of SCC 14.06.170.
- (10) The decision of the Board, after conducting a closed record hearing on the matter, shall be final. A Notice of Decision of the Board shall be issued as required by SCC 14.06.200.

- (11) Any appeal of the Board decision shall be to Superior Court, as provided in SCC 14.06.220, Judicial appeals.

14.06.160 Open record public hearings procedures.

- (1) *No change.*
- (2) *No change.*
- (3) *No change.*
- (4) *No change.*
- (5) Staff Report by Department.
 - (a) In an open record appeal hearing, at least 7 days prior to the date set for the open record public hearing, the Department shall transmit to the hearing body all of the records pertaining to the decision being appealed, together with such additional written report that the Administrative Official deems pertinent explaining the decision being appealed or responding to the statements in the Notice of Appeal. If the Administrative Official prepares an additional written staff report, a copy shall also be sent to the applicant and to any appellants 7 days prior to the date set for the hearing.
 - (b) In the case of a pre-decision open record hearing, the Department shall coordinate and assemble the comments and recommendations of other County Departments and governmental agencies having an interest in the subject application and shall prepare a staff report summarizing the factors involved, including the Department findings and supportive recommendations. The staff report shall be filed with the Hearing Examiner ~~or the Planning Commission~~ at least 7 days prior to the scheduled hearing and copies thereof shall be mailed to the applicant and shall be made available for use by any interested party at the reproduction cost.
- (6) One Public Hearing. Before rendering a decision or recommendation on the Development permit or appeal, the Hearing Examiner ~~or the Planning Commission~~ shall hold 1 public hearing pursuant to SCC 14.06.060, however, the public hearing may be continued for more than 1 day. Notice of the public hearing shall be provided as required in SCC 14.06.150(3). The public hearing may be continued to a date, time and place certain, without requiring additional public notice, as long as the requirements of the Open Public Meetings Act, Chapter 42.30 RCW, are met.
- (7) *No change.*
- (8) As described in SCC 14.02.070 and 14.02.080, the Hearing Examiner ~~or the Planning Commission~~ may adopt other rules of procedure not inconsistent with these procedures. Further, if deemed appropriate to facilitate review of a particular development permit, the Hearing Examiner ~~or the Planning Commission~~ may adopt specific procedures for an individual matter.
- (9) Decision or Recommendation. Within 15 days after completion of the public hearing or after the date for submittal of all written comments, whichever is later, the Hearing Examiner ~~or the Planning Commission~~ shall render a decision or make a recommendation on the appeal or development permit. The Hearing Examiner ~~or the Planning Commission~~ decision or recommendation shall be in writing and shall include a statement of the applicable criteria and standards from the Skagit County Comprehensive Plan; the Skagit County Code and other

applicable law; a statement of the facts that the Hearing Examiner ~~or the Planning Commission~~ found showing the application does or does not comply with each applicable approval criterion and assurance of compliance with applicable standards; the reasons for the decision or the recommendation to approve or deny the development permit or appeal; and any conditions or modifications deemed necessary.

14.06.220 Judicial appeals.

- (1) The decision of the Board approving or disapproving a recommendation from the Hearing Examiner ~~or the Planning Commission~~, or granting or denying any appeal from the Hearing Examiner shall be incorporated into a resolution or ordinance and shall be final and conclusive on the date of adoption of said resolution or ordinance for purposes of appeal pursuant to the Land Use Petition Act (Chapter 36.70C RCW).
- (2) *No change.*

14.16.600 ~~Unclassified use permit~~ Essential Public Facilities.

- (1) Purpose. This section provides for the higher scrutiny necessary to permit certain regional uses that will have potentially significant built and natural environmental impacts that can adversely affect the rural character of the surrounding area.
- ~~(2) Unclassified uses include the following uses. Included in parentheses after each use are the zones in which an unclassified use may be considered. The listing of zoning districts in which an unclassified use may be permitted does not presume that a specific use in a given location will be determined to be appropriate.~~
 - ~~(a) State and regional correctional facilities (SF-NRL, RRc-NRL, RRv).~~
 - ~~(b) Power generation facilities (IF-NRL, SF-NRL, RRc-NRL, BR-HI).~~
 - ~~(c) Oil and gas extraction (IF-NRL, SF-NRL, RRc-NRL).~~
 - ~~(d) Solid waste handling facility (SF-NRL, RRc-NRL, BR-HI, BR-LI, HI).~~
 - ~~(e) Regional wastewater treatment facilities (SF-NRL, RRc-NRL, RRv, BR-HI).~~
 - ~~(f) Regional racetracks (RRv, BR-LI, BR-HI).~~
 - ~~(g) Fairgrounds (RRv).~~
 - ~~(h) Stadiums/arenas (RRc-NRL, RRv, BR-LI, BR-HI).~~
 - ~~(i) Colleges/State educational facilities (SF-NRL, RRc-NRL, RRv).~~
 - ~~(j) Regional transportation facilities (SF-NRL, RRc-NRL, RRv, BR-LI, BR-HI).~~
 - ~~(k) In-patient substance abuse and mental health facilities (RRv).~~
 - ~~(l) Hospitals (RRv, RI, BR-LI).~~
 - ~~(m) Regional performing center (RRv, RI, RVR, BR-LI).~~

~~As authorized under SCC 14.16.020(3), additional unclassified uses may be determined by the Administrative Official.~~

- ~~(2) When allowed. An essential public facility (EPF) may be permitted in the following zones. Inclusion in the table does not presume that a specific use in a given location will be~~

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determined to be appropriate. In the table, R means a regional EPF is allowed in the zone; L means a local EPF is allowed in the zone.

Type of Use	AVR	BR-LI	BR-HI	HI	IF-NRL	RVR	RRc-NRL	RRv	RI	SF-NRL
Airports	R		R							
State educational facility							R, L	R, L		R, L
State or regional transportation facility as defined in RCW 47.06.140		R, L	R, L				R, L	R, L		R, L
Regional transit authority facility as defined in RCW 81.112.020										
State/regional or local correctional facility							R, L	R, L		R, L
Solid waste handling facility		R, L	R, L	R, L			R, L			R, L
In-patient substance abuse, mental health, or secure community transition facility								R, L		
Power generation facility			R, L		R, L		R, L			R, L
Oil and gas extraction					R, L		R, L			R, L
Regional wastewater treatment facilities			R, L				R, L	R, L		R, L
Regional racetracks		R, L	R, L					R, L		
Fairgrounds								R, L		
Stadiums/arenas		R, L	R, L				R, L	R, L		
Hospitals		R, L						R, L	R, L	
Regional performing center		R				R		R	R	

Commented [A2]: New, not previously in the list.

Commented [A3]: Not previously in the list

Commented [A4]: New

Commented [A5]: These items are in the current code, so are replicated here, but are not required by the statute. They could be deleted.

- (3) Process. ~~An unclassified use application shall be reviewed under the same process as a Comprehensive Plan amendment, found in SCC 14.08.020. After receipt of an application for an EPF, the Administrative Official must determine if the EPF is of local or regional scale.~~

(a) A regional EPF is a major facility that provides public services to more than one county, where the provider has statutory authority to site and construct the facility, or where a regional, inter-governmental siting process has been followed. An application for a regional EPF is processed as a Level III application per SCC Chapter 14.06.

(b) A local EPF serves residents or property in Skagit County and is not a regional EPF. An application for a local EPF is processed as a Level II application per SCC Chapter 14.06.

- (4) Application Requirements. ~~An unclassified use application shall provide the same submittal materials as a rezone, found in SCC 14.16.900 and 14.08.020. An unclassified use permit shall also include an alternative site analysis evaluating at least 3 other alternative sites for the proposed facility. An application for an essential public facility must include the following:~~

(a) A detailed written description of the proposed and potential public services to be provided, including a proposed site plan, the proposed service area of the facility, the source or sources of funding, and identification of any applicable public regulatory agencies or regional state or federal project agency sponsors and the federal or state authority which the agency has been granted for siting decision-making;

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- (b) A written statement of the need, in statistical or narrative form, for the proposed project currently and over the following 10-year period;
- (c) An inventory of known, existing or proposed facilities, by name and address, within Skagit County, or within the region, serving the same or similar needs as the proposed project;
- (d) An explanation of the need and suitability for the proposed facility in the proposed location(s);
- (e) An assessment of the suitability of the proposed location in the county or another jurisdiction in terms of local, county, regional and/or state needs in order to minimize public costs (where appropriate) and environmental impacts, to discern the suitability of the facility's location in the city or within another jurisdiction, to determine the number of jurisdictions affected or served by the proposed EPF, and to decide what, if any, inter-jurisdictional approach is most appropriate or available;
- (f) An analysis of the environmental, social, economic, financial and infrastructure impacts of the proposed EPF, including an assessment of the proportionate financial impacts on affected jurisdictions, consideration copies of agreements which allocate the financial burdens of the proposed project on the city and other jurisdictions, and the approximate area within which the proposed project could potentially have adverse impacts, such as increased traffic, public safety risks, noise, glare, emissions, or other environmental impacts;
- (g) An analysis of the proposal's consistency with the County's comprehensive plan and development regulations, and plans and policies of other affected jurisdictions, including but not limited to Skagit County countywide planning policies;
- (h) Documentation of public involvement efforts to date, including public and agency comments received, and plans for future public participation;
- (i) All application materials required by other provisions of Skagit County Code for components of the project not covered by this chapter; such as platting requirements, critical area code compliance, traffic concurrency, comprehensive plan and zoning, etc., so that code compliance for all components of the project can be reviewed together;
- (j) Any additional information requested by the Administrative Official necessary to complete the preliminary analysis or to otherwise assist the Department and Hearing Examiner in making recommendation(s) and the Board of County Commissioners in making the final determination on the application.

(5) Approval Criteria. The burden of proof shall be on the applicant to provide evidence in support of the application. The criteria for approval or denial shall include the following elements:

- (a) The characteristics of the ~~unclassified~~ use will not be unreasonably incompatible with the types of uses permitted in surrounding areas;
- (b) The proposed ~~unclassified~~ use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding existing or potential dwelling units;
- (c) The ~~unclassified~~ use will not materially endanger the health, safety and welfare of the community;

- (d) The ~~unclassified~~ use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the local area;
 - (e) The ~~unclassified~~ use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts;
 - (f) The location, size and height of buildings, structures, walls and fences and screening vegetation for the ~~unclassified~~ use shall not hinder or discourage the appropriate development or use of neighboring properties;
 - (g) The ~~unclassified~~ use is not in conflict with the policies of the Comprehensive Plan, the Comprehensive Plans of adjacent jurisdictions that may be affected by the use, or the basic purposes of this Title. In particular, the factors of Capital Facilities Element policies 5.4.2, 5.4.3, and 5.8, and Essential Public Facilities Policy 3.2 shall be addressed;
 - (h) For ~~unclassified~~ uses outside of urban growth areas, extension, construction, or maintenance of urban services and facilities is not required, unless no practicable alternative exists;
 - (i) No feasible alternative sites which better meet the requirements of these criteria;
 - (j) The need for the ~~unclassified~~ use at a specific location is necessary, taking into account region-wide distribution of facilities and the capacity and location of equivalent facilities;
 - (k) For ~~unclassified~~ uses in or adjacent to IF-NRL, SF-NRL, AG-NRL, and RRc-NRL zoned lands, the impacts on the long-term natural resource management and production will be minimized;
 - (l) For State-owned essential public facilities, the State shall provide justification for the facility and its location in Skagit County based on forecasted needs and a logical service area; and
 - (m) For State-owned essential public facilities, the State shall have established a public process by which the residents of the County and of affected and "host" municipalities have a reasonable opportunity to participate in the site selection process.
- (6) Conditions of Approval. If approved, conditions of approval for the ~~unclassified~~ use shall include conditions of approval ~~which that~~ address the criteria listed above and the following:
- (a) Accessibility;
 - (b) Transportation needs and services;
 - (c) Supporting public facility and public service needs and the availability thereof;
 - (d) Site design;
 - (e) Time required for construction;
 - (f) Control of on-site and off-site impacts during construction;
 - (g) Facility operations;
 - (h) Impacts on critical areas;

- (i) Maintenance of standards congruent with applicable governmental regulations, particularly as they may change and become more stringent over time; and
- (j) Expediting and streamlining necessary governmental approvals and permits.

(7) Notice and community involvement.

(a) Regional EPF.

- (i) In addition to such other notice as may be required by law before the siting decision, and at least 90 days before submitting an application for a Regional EPF, the applicant must notify the affected public and jurisdictions of the general type and nature of the proposal, identify sites under consideration for accommodating the proposed facility, and identify opportunities to comment on the proposal.
- (ii) Published notice must be in a newspaper of general circulation in the affected area, and must include the information described above.
- (iii) The purpose of this provision is to enable potentially affected jurisdictions and the public to collectively review and comment on alternative sites for major facilities before the project sponsor has made their siting decision. Facilities identified and sited in the County's comprehensive plan shall be considered to have enabled potentially affected jurisdictions and the public to collectively review and comment on alternative sites.

(b) Local EPF. Must follow the notice procedures for Level II applications.

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C-11 Personal Wireless Services Facilities

Replace all instances in Title 14 of "co-locate" with "collocate" and "co-location" with "collocation."

Commented [A6]: Removing hyphen is consistent with spelling in federal regulations.

14.04.020 Definitions

The following definitions are amended or created:

~~Co-location~~ Collocation: ~~the use of a personal wireless service facility, cell site or other structure by more than 1 personal wireless services provider. The mounting or installation of equipment on an existing tower, building, or structure for the purposes of either transmitting or receiving, or both, radio frequency signals for communication purposes.~~

Commented [A7]: Federal regulations use this spelling.

Eligible Collocation or Modification Request: Any request for collocation or modification of an existing tower, building, or structure that does not result in a substantial change as provided in SCC 14.16.720(6). Modification may include removal or replacement of transmission equipment.

Commented [A8]: Changed this to conform to the SEPA and FCC definitions. Existing definition problematic because refers to other personal service providers. By eliminating reference to other providers, includes addition of equipment even from the original carrier. This is consistent with state and fed definition.

Taken from the SEPA rules, with a slight modification from the FEC definition.

Commented [A9]: The equivalent of "eligible facilities request" as defined by federal law. Used "collocation or modification" to better fit within our existing code framework.

14.06.100 Determination of completeness.

- (1) *No change.*
- (2) *No change.*
- (3) For applications determined to be incomplete, the Administrative Official or designee shall identify, in writing, the specific requirements or information necessary to constitute a complete application and inform the applicant that the required information must be submitted to the Department within 180 days. If the applicant does not submit all of the required information within the 180-day period, the application shall lapse. The applicant may

request in writing an extension of time if the request is made at least 14 days prior to the expiration of the 180-day period. The Administrative Official or designee may grant 1 or more (although not exceeding 3) 3-month extensions if the required studies or information warrants additional time. Upon submittal of the additional information, the Administrative Official or designee shall, within 14 days, issue a determination of completeness or identify what additional information is required except for eligible collocation and modification requests for personal wireless services facilities which require a response within 10 days of receipt of additional information. An application will not be deemed complete for purposes of vesting until all information requested for a complete application is received by the Department, unless Subsection (4) of this Section applies.

Commented [A10]: This satisfies federal requirement that a response be provided within 10 days after receipt of additional information.

- (4) *No change.*
- (5) *No change.*
- (6) *No change.*

14.06.210 Timing of decisions

(1) In general, all development permit decisions shall be issued within 120 days of the date the letter of completeness is issued.

(a) Final decision on preliminary subdivisions and binding site plans shall generally be issued within 90 days from the date the letter of completeness is issued.

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(b) Final decisions on final plats and short plats shall generally be issued within 30 days from the date the letter of completeness is issued.

~~(c)~~ (c) Final decisions on eligible collocation and modification requests for personal wireless services facilities must be issued within 60 days of the date a letter of completeness is issued.

Commented [A11]: Adding this to reflect requirement that collocation requests be approved within 60 days under the rules established by FCC, aka "shot clock" provisions. There is also a 150 day requirement for other (or new) wireless facilities requests, however no amendment needed because Skagit County already requires 120 day development review timeline.

- (2) *No change.*
- (3) *No change.*
- (4) The provisions of this Section notwithstanding, the failure to issue a final decision within the time frames specified shall not be considered an implicit approval or denial of the development permit, nor shall it be reason in and of itself for the County to be liable for damages for failure to meet the specified time frames.

(a) Exception. If the County fails to issue a final decision for an eligible collocation or modification request for a personal wireless services facility within 60 days (accounting for any tolling) the application is deemed granted. The approval does not become effective until the applicant notifies the County in writing after the review period has expired that the application has been deemed granted. The County may challenge this determination in a court of competent jurisdiction.

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Commented [A12]: This satisfies rules regarding "deemed granted" for eligible facilities request.

14.16.720 Personal wireless services facilities.

- (1) Purpose. These standards were developed to protect the public health, safety and welfare, to protect property values and minimize visual impact while furthering the development of enhanced wireless telecommunications services in the County. These standards were designed to comply with the Telecommunications Act of 1996. The Board of County Commissioners finds that the promulgation of this Section is warranted and necessary:

- (a) To manage the location of towers and antennas in the County;
 - (b) To protect residential areas and land uses from adverse impacts of towers;
 - (c) To minimize adverse visual impacts of towers through careful design, siting, landscape screening and innovative camouflaging techniques;
 - (d) To accommodate an increased need for towers/antennas to serve the wireless communication needs of County residents;
 - (e) To promote and encourage ~~co-location~~ collocation ~~on existing and new towers as an option~~ rather than construction of additional single-use towers and to reduce the number of such structures needed in the future;
 - (f) To consider the public health and safety of towers to the extent permitted by the Telecommunications Act of 1996; and
 - (g) To avoid potential damage to adjacent properties through sound engineering practices and the proper siting of antenna support structures.
- (2) Tower Sites on Substandard Lots and Lots with Other Uses.
- (a) For the purposes of this Title, personal wireless services and facilities shall be considered utilities. A communication tower may be located on a lot utilized for other uses and on a parcel smaller than the minimum lot size required in the zoning district. This parcel shall be identified as the “tower site.” The tower site shall be subject to the requirements of SCC 14.16.720, but not the requirements of Chapter 14.18 SCC, Land Division.
 - (b) A wireless service provider shall provide documentation that permission has been granted for the use of an easement for a “tower site.” Such easement areas shall be shown on the site plan. Documentation of the recording of the easement shall be required prior to the issuance of the building permit.
- (3) Intent. The intent of this Section is to provide specific regulations for the placement, construction and modification of personal wireless service facilities. The provisions of this Section are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of personal wireless services, nor shall the provisions of this Section be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.
- (4) Interpretation. To the extent that any provision or provisions of this Section is inconsistent or in conflict with any other provision of the County code or any ordinance of the County, the more restrictive provisions(s) shall control.
- (5) Siting Goals. The County has been confronted with increasing frequency with requests to site towers and antennas. Thus, the County has established the following goals to guide the siting of towers and antennas:
- (a) Enhance the ability of personal wireless service providers to provide such services throughout the County quickly, effectively and efficiently;
 - (b) Encourage personal wireless service providers to locate towers and antennas in nonresidential areas;
 - (c) Minimize the total number of towers throughout the County;

Commented [A13]: New definition of collocation presumes that the tower is existing.

Commented [A14]: Adding to make clear that towers can be placed on substandard lots, and that substandard lots may be created outside the subdivision process in 14.18 to allow for a “tower site.”

- (d) Encourage personal wireless service providers to ~~co-locate on new and existing tower sites;~~ and
 - (e) Encourage personal wireless service providers to locate towers and antennas in areas where the adverse visual impact on County residents is minimal.
- (6) ~~Co-Location~~ Collocation Encouraged. ~~To minimize adverse visual impacts associated with the proliferation of towers, co-location~~ Collocation of personal wireless service facilities ~~on existing or new~~ towers is encouraged as follows:
- (a) ~~Providers shall and are encouraged to co-locate onto towers provided such co-location is accomplished in a manner consistent with the policy, site criteria, landscaping/screening and all other provisions contained in this Section, then such co-locations~~ Eligible collocations are permitted by right and new or additional special use permit review approval is not required, except that any other permit, license, lease, or franchise requirements must be satisfied. An eligible collocation is one that does not result in a substantial change in the size of the tower, structure, etc. "Substantial change" occurs when a collocation or modification substantially changes the physical dimensions of an existing tower, building, or structure if it meets any of the following criteria:
 - (i) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;
 - (ii) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
 - (iii) For any existing structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
 - (iv) It entails any excavation or deployment outside the current site;
 - (v) It would defeat the concealment elements of the existing structure; or
 - (vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs (i)-(iv) of this subsection.

Commented [A15]: Again, collocation redefined to refer only to existing.

Commented [A16]: While this remains a goal in personal wireless facilities siting, the purposes are broader in light of the federal law. One of the purposes is to facilitate the quick implementation of new technology as it evolves. So propose deleting this.

Commented [A17]: See above re collocation definition. Already includes the concept of existing.

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- (b) The County will not consider an application complete to construct new facilities unless the applicant has shown that it has made a diligent effort to mount the facilities on an existing structure or tower that is within a 2,500-foot radius of the chosen site.
- (c) When ~~co-location~~[collocation](#) on an existing facility is not feasible:
 - (i) An applicant's site plan shall reserve an area for other providers' equipment near the base of the applicant's tower; and
 - (ii) The site plan for towers in excess of 100 feet must propose space for a minimum of 2 additional providers, while the site plan for towers 100 feet or less must propose space for a minimum of 1 additional provider.

~~(d) To provide further incentive for co-location, an existing tower may be modified as a matter of right to accommodate co-location without new or additional special use permits. The following conditions shall also be met:~~

- ~~(i) Height. An existing tower may be modified or rebuilt to a taller height, not to exceed 20 feet over the tower's existing height and subject to the other provisions of this Section. The height change may occur only once per tower.~~

~~(e)~~[\(d\) Application Requirements for Eligible Collocation or Modification Requests.](#) The applicant must submit [sufficiently](#) detailed plans ~~to Planning and Development Services on forms provided by the Department~~ for an administrative review to determine if the special use permit review process and public hearing can be waived [per \(6\)\(a\) above](#). No building permit will be issued until approval is granted through the administrative review of the ~~co-location~~[eligible collocation or modification request. See SCC 14.06.100 and .210 for requirements related to timing of review of eligible collocation and modification requests.](#)

(7) – (11) *No change.*

(12) General Requirements. The following general requirements shall apply to towers and antennas construction:

- (a) New Uses. All new applications for antennas and towers filed after the adoption of the ordinance codified in this Chapter shall comply with this Section.
- (b) Existing Uses. All towers and antennas existing on the date of passage of this Section shall be allowed to continue as they presently exist. Routine maintenance shall be permitted on existing towers and antennas. However, new construction other than routine maintenance on existing towers, antennas, buildings or other facilities shall comply with the provisions set forth in this Section.
- (c) Permits Required. Permits are required for all personal wireless service facilities as follows:
 - (i) Building permits shall be required for co-location or expansion projects on existing towers located within any zoning district. For the purposes of this Subsection only, a building permit does not trigger a development permit application for a shoreline substantial development permit under Chapter 14.26 SCC when the application is to co-locate on an existing antenna support structure. [Eligible collocation and modification requests are permitted as of right and do not require a special use permit.](#)

(ii) Building permits and administrative special use permits shall be required for projects [\(excluding eligible collocation and modification requests\)](#) located within the Bayview Ridge Light Industrial (BR-LI), Bayview Ridge Heavy Industrial (BR-HI), Natural Resources Industrial (NRI), Rural Marine Industrial (RMI), Rural Freeway Services (RFS), Urban Reserve Commercial-Industrial (URC-I), Hamilton Industrial (H-I), Rural Village Commercial (RVC), Rural Center (RC), Rural Business (RB), Agricultural (Ag-NRL), Secondary Forest (SF-NRL), Rural Resource (RRc-NRL), Industrial Forest-Natural Resource Lands (IF-NRL), Urban Reserve Public Open Space (URP-OS), Public Open Space of Regional/State Importance (OSRSI), and the Master Planned Resort (MPR) zones and on projects located within the (c), (d), (e) and (f) priority locations of Subsection (10) of this Section.

(iii) Building permits and Hearing Examiner special use permits shall be required for projects [\(excluding eligible collocation and modification requests\)](#) located within the Aviation Related (AVR), Rural Intermediate (RI), Rural Village Residential (RVR), Urban Reserve Residential (URR), Hamilton Urban Reserve (H-URv), Rural Reserve (RRv), Small Scale Business (SSB), and Small Scale Recreation and Tourism (SRT) zoning districts and for (g) and (h) priority locations of Subsection (10) of this Section.

(d) Inspection Required. Each year after a personal wireless service facility becomes operational, the facility operator shall conduct a safety inspection and file a report with the County within 60 days of the inspection. This requirement shall be a condition of any permit.

(e) Noise Regulations. Noise from air conditioners or other equipment associated with personal wireless service facilities and appurtenant structures shall not exceed 45dBA “EDNA” (Chapter 173-60 WAC, Maximum Environmental Noise Levels) at the adjacent residential property line, except for emergency situations requiring the use of a backup generator where the noise standards may be exceeded on a temporary basis.

(f) Federal Requirements. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the personal wireless services providers governed by this Section shall bring such towers and antennas into compliance within the timelines provided by the revised standards and regulations. The revised standards and regulations are not retroactively applicable to existing providers unless otherwise provided or permitted by Federal law. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the County to remove the provider’s facilities at the provider’s expense.

[\(g\) No banners or similar materials may be attached to the tower, antenna support structure or antenna.](#)

(13) – (16) *No change.*

(17) Application Process. Developers of towers and antennas are encouraged to consult with Skagit County Planning and Development Services staff prior to making application in order to review the siting policies, priority of locations and to discuss the permitting process and application requirements. In reviewing any application to provide personal wireless services or to install personal wireless service facilities, Planning and Development Services shall act within a

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Commented [A18]: This subsection deleted because it is covered in subsection (a) above.

reasonable period of time taking into account the nature and scope of the application. [For eligible collocation and modification requests, a reasonable period of time is 60 days from the time an complete application is filed. For all other proposals for personal wireless service facilities, a reasonable period of time is 120 days.](#) Any decision to deny such an application shall be in writing and supported by substantial evidence contained in a written record. The review and approval process is defined in Chapter 14.06 SCC, Permit Procedures.

- (18) Application ~~Package~~-Requirements [for Proposed Personal Wireless Service Facilities, Excluding Eligible Collocation and Modification Requests](#). A complete application form provided by Planning and Development Services, with supporting documents as required below, that contains sufficient information to determine compliance with adopted rules and regulations as outlined in SCC 14.16.850 shall be submitted. At the discretion of Planning and Development Services, all personal wireless service facilities applicants shall be required to submit any combination of site plans, surveys, maps, technical reports or written narratives necessary to convey the following information:
- (a) – (q) *No change.*
- (19) *No change.*
- (20) Upon approval of a special use permit [where necessary](#), the subsequent completed building permit application will require the following items:
- (a) – (c) *No change.*

Commented [A19]: To conform with requirement that county can only ask for the information necessary to determine if it meets the eligible collocation or modification request.

14.18.000 General

- (1) *No change.*
- (2) Applicability/Exemptions. This Chapter shall apply to all divisions and redivisions of land for the purposes of sale, lease, or other transfer except:
 - (a) Cemeteries and other burial plots while used for that purpose;
 - (b) Divisions of land into lots 80 acres and greater. For purposes of computing the size under this Subsection exemption of any lot that borders on a street or road, the lot size shall be expanded to include that area which would be bounded by the centerline of the road or street and the side lot lines of the lot running perpendicular to such centerline.
 - (c) Divisions made by testamentary provisions, or the laws of descent; provided, that newly created parcels are subject to all zoning and building code regulations in effect at the time of the filing of a complete development permit application for such parcel.
 - (d) [A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose.](#)
 - (e) [Any other division exempted by RCW 58.17.040.](#)

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Commented [A20]: This is to conform to RCW 58.17.040(8). Note there are additional types of land divisions exempted in this section of the RCW. Only addressing the personal wireless services facilities one here because of focus of these proposed amendments.

C-12 and C-13 NRL Disclosure Mailing and Title Notice

SCC 14.38.030 Disclosure.

- ~~(1) — The statement set forth in Subsection (2) of this Section (“disclosure”) shall be used under the following circumstances and in the following manners:~~

~~(a) — Skagit County shall mail a copy of the disclosure, with an explanatory informational attachment to all landowners whose parcel(s) lie within an area or within 500 feet of an area designated as a Natural Resource Land in Skagit County beginning in the year 1999 and every 3 years thereafter; provided that no liability shall attach to Skagit County for any actions or omissions under this Subsection.~~

~~(b)~~(1) Upon transfer of real property by sale, exchange, gift, real estate contract, lease with an option to purchase, any other option to purchase, ground lease coupled with improvements, or any other means, the ~~seller shall be required to~~ buyer must record with the County Auditor a statement containing the language set forth in Subsection (2) of this Section in conjunction with the deed conveying the real property; ~~provided, however, that~~ when the real property is located within 1 mile of the Agriculture Natural Resource Land (Ag-NRL), or 1/4 mile of Industrial Forest Natural Resource Land (IF-NRL), Secondary Forest Natural Resource Land (SF-NRL), or Rural Resource Natural Resource Land (RRC-NRL), or Mineral Resource Overlay (MRO-NRL) districts, as set forth in SCC 14.16.400, 14.16.410, 14.16.420, 14.16.430, and 14.16.440, respectively.

(2) The following shall constitute the disclosure required by this Section:

This ~~disclosure applies to parcels~~ property may be designated or may be within 1 mile of designated agricultural land or designated or within 1/4 mile of rural resource, forest or mineral resource lands of long-term commercial significance in Skagit County. A variety of Natural Resource Land commercial activities occur or may occur in the area that may not be compatible with non-resource uses and may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals; or from spraying, pruning, harvesting or mineral extraction with associated activities, which occasionally generates traffic, dust, smoke, noise, and odor. Skagit County has established natural resource management operations as a priority use on designated Natural Resource Lands, and area residents should be prepared to accept such incompatibilities, inconveniences or discomfort from normal, necessary Natural Resource Land operations when performed in compliance with Best Management Practices and local, State, and Federal law.

In the case of mineral lands, application might be made for mining-related activities including extraction, washing, crushing, stockpiling, blasting, transporting and recycling of minerals. If you are adjacent to designated NR Lands, you will have setback requirements from designated NR Lands.

C-14 Notification of Development adjacent to NRL land

14.16.870 Notification of development activities on or adjacent to designated natural resource lands.

(1) Title Notification. The owner of any site in or within 500 feet of Natural Resources Lands, for which an application for a development permit is submitted ~~as defined in Chapter 14.04 SCC, shall record a title notification with the Skagit County Auditor. The content and form must be approved by the Administrative Official and the Prosecuting Attorney. The notice shall be notarized and shall be recorded prior to approval of any development proposal for the site, and include the following language~~ must sign a statement that includes the following language:

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This parcel lies within an area or is within 500 feet of an area designated as a natural resource land (agricultural, forest, and mineral resource lands of long-term commercial significance) in Skagit County. A variety of natural resource land commercial activities occur or may occur in the area that may not be compatible with non-resource uses and may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals; or from spraying, pruning, harvesting, or mineral extraction with associated activities, which occasionally generates traffic, dust, smoke, noise, and odor. Skagit County has established natural resource management operations as a priority use on designated natural resource lands, and area residents should be prepared to accept such incompatibilities, inconveniences, or discomfort from normal, necessary natural resource land operations when performed in compliance with best management practices and local, State, and Federal law. In the case of mineral lands, application might be made for mining-related activities including extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals. In addition, greater setbacks than typical may be required from the resource area, consistent with SCC 14.16.810. Contact Skagit County Planning and Development Services for details.

C-15 Cleanup: MRO

14.16.430 Rural Resource—Natural Resource Lands (RRc-NRL).

- (1) *No change.*
- (2) *No change.*
- (3) *No change.*
- (4) Hearing Examiner Special Uses.
 - (a) – (f) *No change.*
 - (g) If located within a designated mineral resource overlay, extracting and processing mineral resources [pursuant to SCC 14.16.440, Mineral Resource Overlay](#).
 - (h) – (t) *No change.*
- (5) *No change.*
- (6) *No change.*

C-16 Fueling Stations [see S-3]

This item is addressed in item S-3.

C-17 Temporary Events in Commercial and Industrial

14.16.195 Urban Reserve Commercial-Industrial (URC-I).

- (1) Purpose. *No change.*

(2) Permitted Uses.

(a) – (aa) *No change.*

(bb) Temporary events.

(3) Administrative Special Uses.

(a) – (h) *No change.*

~~(i) Temporary events.~~

~~(i)~~ (i) Trails and primary and secondary trailheads.

~~(i)~~ (i) Marijuana retail facility.

(4) Hearing Examiner Special Uses. *No change.*

(5) Dimensional Standards. *No change.*

(6) Infrastructure Development Standards. *No change.*

(7) Pedestrian Circulation. *No change.*

(8) *No change.*

C-18 SEPA Admin Appeals

14.06.110 Level I review procedures.

(1) – (12) *No change.*

(13) The decision of the Hearing Examiner on the open record appeal may be appealed to the Board by filing a written Notice of Appeal with the clerk of the Board that meets the requirements of Subsections (8) and (9) of this Section within 14 days after the date of the Hearing Examiner decision, or decision on reconsideration, if applicable. Consistent with SCC 16.12.210, Appeals, the decision of the Hearing Examiner on SEPA procedural determinations (e.g., the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement) is the final County determination and no appeal to the Board is allowed. This appeal shall be processed as a closed record appeal, pursuant to the provisions of SCC 14.06.170. The appellant shall bear the burden of proving the decision of the Hearing Examiner was clearly erroneous. The Board shall not overturn or modify the decision of the Hearing Examiner unless it finds it is clearly erroneous. The closed record appeal shall be conducted and a decision rendered within 60 days of the receipt of the Notice of Appeal.

(14) – (15). *No change.*

C-19 Administrative Reduction in Setbacks

The following sections are amended as follows:

14.10.010 Purpose.

Variances from the terms of this Title may be authorized in specific cases that will not be contrary to the public interest, and where, due to special conditions, literal enforcement of the provisions of this Code would result in unnecessary hardship. Generally, variances shall only be considered for dimensional

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standards, unless otherwise specified in this Title. Under no circumstances shall a variance be granted that allows a use not permissible under the terms of this Chapter in the district involved, or any use expressly or by implication prohibited by the terms of this Chapter in the district.

14.10.020 Applicability—Types of variances.

~~Variances shall generally be one of three types:~~ A variance is one of three types:

- (1) Administrative Variances. The following variances ~~shall be processed as a~~ are Level I ~~administrative decision pursuant to the provisions of SCC Chapter 14.06 by the respective department indicated. Appeals of administrative variances shall be to the Hearing Examiner as provided in SCC Chapter 14.06, except for alternatives to public works standards of SCC Chapter 14.36; applications and must demonstrate compliance with the criteria identified in the cited code sections:~~
 - (a) ~~Alternatives to the public works standards of SCC Chapter 14.36 shall be decided administratively by the Public Works Department, pursuant to Section 2.10 of the Skagit County Road Standards Manual;~~
 - (b) ~~Variances to the agricultural siting criteria of SCC 14.16.400 and 14.16.860 shall be decided administratively by Planning and Development Services.;~~
 - (c) ~~Variances allowed in SCC 14.16.800(1)(d) related to~~ Reductions in parking requirements ~~allowed by SCC 14.16.800(2)(b);~~
 - (d) ~~Administrative setback reductions up to~~ 50 ~~100%~~ 100% ~~of the standard setback allowed by SCC 14.16.810(4) related to setback reductions;~~
 - (e) ~~Administrative setback reductions within Natural Resource Lands allowed by SCC 14.16.810(8);~~
 - (f) ~~Variances from the combined setbacks/height limit in the Guemes Island Overlay, SCC 14.16.360;~~
 - (g) ~~Variances allowed by and SCC 14.16.830(6)(i) related to landscaping requirements; shall be decided administratively by Planning and Development Services.~~
 - (h) ~~Variances to SCC 14.16.340(5), minimum density for short plats, may be allowed in cases where previously developed property or property with critical areas constraints precludes development at the required densities. Such variances shall be decided administratively by Planning and Development Services.;~~
 - (i) ~~Adjustments or exceptions from the provisions of SCC Chapter 14.32 are decided administratively by Planning and Development Services using the process and criteria in SCC 14.32.040(5) and not this Chapter.;~~
 - (j) ~~Variances to standard critical area buffer widths (25 percent to 50 percent) pursuant to SCC 14.24.140(1)(a) shall be decided administratively by Planning and Development Services.~~
- (2) Board of County Commissioner Variances. Variances to any ~~other~~ requirements of the Ag-NRL zone found in SCC 14.16.400, ~~other than those listed above,~~ or to SCC 14.16.860, agricultural resource-land preservation, ~~SCC 14.16.860~~, shall be processed as a Level III application ~~HE recommendation by the Hearing Examiner with a final decision by the Board of County Commissioners, as described in Chapter 14.06 SCC.~~

Commented [A21]: All of this is described in Chapter 14.06.

Commented [A22]: These are not variances, are not handled by PDS, and are not level 1 decisions.

Commented [RW-P23]: Change implements Board directive.

Commented [RW-P24]: Addition implements Board directive.

- (3) Hearing Examiner Variances. ~~All Any other requests for variances to from any of the allowed provisions requirements of this Title shall be processed as is a Level II application unless otherwise specified. Hearing Examiner Decision pursuant to the requirements of Chapter 14.06 SCC (Permit Procedures). Appeal of the Hearing Examiner Decision may be made to the Board of County Commissioners as described in Chapter 14.06 SCC; provided, that shoreline variances shall follow the procedures of the Skagit County Shoreline Management Master Program, as may be amended.~~

14.10.030 Application ~~procedures~~ requirements.

- (1) ~~An application for a variance must be submitted on forms provided by the Department and must demonstrate compliance with each of the variance criteria in 14.10.040.~~
- (2) ~~An application for a variance may be accompanied by another permit application that depends on the variance, but the accompanying permit application may not be approved until the variance is approved.~~
- (1) ~~A variance from the requirements of this Title shall be submitted on forms provided by Planning and Development Services, or, in the case of a request for an alternative from the Public Works Standards, on forms provided by the Public Works Department.~~
- (2) ~~A narrative statement shall be included with the application forms demonstrating that the requested variance conforms to the following standards:~~
- (a) ~~Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district. Topics to be addressed include topographic or critical area constraints that make use of the particular site infeasible without the proposed variance.~~
- ~~(b)(a) Literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of SCC Titles 14 and 15.~~
- ~~(c)(a) The special conditions and circumstances do not result from the actions of the applicant.~~
- ~~(d)(a) The granting of the variance requested will not confer on the applicant any special privilege that is denied by SCC Titles 14 and 15 to other lands, structures, or buildings in the same district.~~
- (e) ~~An explanation of how the requested variance meets any other specific criteria required for the type of variance requested, where applicable, including, but not limited, to the following:~~
- (i) ~~Explanation of compliance with the criteria for a Critical Areas Ordinance variance under SCC 14.24.140.~~
- (ii) ~~Explanation of compliance with the criteria for a shoreline variance under the Skagit County Shoreline Management Master Program.~~
- (iii) ~~Explanation of compliance with the criteria for a public works alternative under the Skagit County Public Works Standards adopted pursuant to Chapter 14.36 SCC.~~

~~(iv) Explanation of compliance with the criteria for variance from the agricultural siting criteria found in SCC 14.16.400(6).~~

~~(v) Explanation of compliance with the criteria for a Flood Hazard Ordinance variance found in SCC 14.34.130.~~

~~(f) If applicable, an explanation from the applicant as to why, if a variance is denied, the applicant would be denied all reasonable use of his or her property.~~

14.10.040 Findings of variance Approval criteria.

- (1) ~~The Approving Authority shall make findings whether:~~ In order to approve a variance, the Approving Authority must make findings that the reasons set forth in the application and record justify the granting of the variance and all of the following:
 - (a) ~~The reasons set forth in the application justify the granting of the variance, including findings relating to compliance~~ The variance complies with any relevant variance criteria found in other sections of Skagit County Code.
 - (b) The variance is the minimum variance that will make possible the reasonable use of land, building, or structure.
 - (c) The granting of the variance will be in harmony with the general purpose and intent of this Title and other applicable provisions of the Skagit County Code, and will not be injurious to the neighborhood, or otherwise detrimental to public welfare.
 - (d) For all Level II variances and all setback variances:
 - (i) The requested variance arises from special conditions and circumstances, including topographic or critical area constraints, which are peculiar to the land, structure, or building involved and which are not ordinarily found among other lands, structures, or buildings in the same district.
 - (ii) The special conditions and circumstances do not result from the actions of the applicant.
 - (iii) Literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of SCC Titles 14 and 15.
 - (iv) The granting of the variance requested will not confer on the applicant any special privilege that is denied by SCC Titles 14 and 15 to other lands, structures, or buildings in the same district.

14.10.050 General conditions.

- (1) In granting any variance, the Approving Authority may prescribe such conditions and safeguards as are necessary to secure adequate protection for the locality in which the use is to be permitted.
- (2) All variance decisions of the County shall be recorded with the Auditor. If they contain conditions to be imposed on the property even after it has been sold, the recorded notice shall include the following information:
 - (a) Owner's name.

- (b) Parcel number.
- (c) Property address.
- (d) Complete legal description.
- (e) Conditions to be imposed on the property.

14.16.810 Setback requirements.

- (1) *No change.*
- (2) *No change.*
- (3) *No change.*
- (4) Administrative Reduction of Setbacks. ~~The Administrative Official may reduce the required front, side or rear setbacks where topography or critical areas or the lot's size and configuration impact the reasonable development of the property. To reduce the front or rear setback, the Administrative Official must determine that the public health, safety, and welfare will be maintained. Consultation with the Public Works Department concerning traffic safety may be solicited during this analysis.~~ An applicant may request a variance to reduce the standard setbacks up to 50% if topography, critical areas, or the lot's size and configuration impact the reasonable development of the property. A variance to reduce setbacks more than 50% is a Level II application. This provision may not be used in locations where 100% height of tower setbacks are required per SCC 14.16.720(13)(b) for personal wireless services facilities.
- (5) Side and Rear Yard Easements. In lieu of normal side or rear yard setback standards required in each zoning district, and as an alternative to obtaining a setback variance, a landowner may seek an easement from the affected adjoining property owner(s). ~~The~~ provisions of this Subsection ~~shall~~ provide greater flexibility to the property owner for the placement of a residence and/or accessory buildings, agricultural, commercial or industrial structures. Minimum building separation must be maintained, ~~i.e., e.g.,~~ 16 feet in a residential zoning classification and as otherwise required by the IBC. In order to construct a structure within the normal side or rear yard setback area, an easement document must be obtained from the adjacent property owner. The easement must be recorded with the Skagit County Auditor's Office and filed with the building permit application. The easement document must contain:
 - (a) The legal description of the grantor's property.
 - (b) The legal description of the grantee's property.
 - (c) The legal description of the easement.
 - (d) What rights are being granted or restricted by the easement. At a minimum the property granting the easement must be restricted from building within twice the normal side yard setback requirements from the property line or the amount of feet necessary to maintain minimum building separation. The owner of the property receiving the easement must be granted the right of access to maintain the structure if needed. Additional rights or restrictions are up to the individual parties.
 - (e) Identification of all the owners of the properties involved.
- (6) *No change.*

Commented [A25]: The code previously did not contain a maximum threshold for administrative review.

Commented [A26]: This provision is important for conformity with wireless facility rules.

(7) Parcels of land outside of and immediately adjacent to Natural Resource Lands (Rural Resource-NRL, Agriculture-NRL, Industrial Forest-NRL, Secondary Forest-NRL, and Mineral Resource Overlay Zones) shall observe a minimum building setback of 200 feet from such Natural Resource Lands. This setback may be waived if the applicant for the building permit on the adjacent non-resource land acknowledges in writing [and records with the auditor a statement of](#) the possible occurrence of agricultural, forestry, or mining activity on the adjacent property and waives, in writing, for all current and future owners, any claim for damages that may occur to the building or occupants because of such activities which are conducted in accordance with applicable State regulations. In the case of Agricultural-NRL and Industrial Forest-NRL lands, this waiver must also be approved by the owner of the adjacent Agricultural-NRL and Industrial Forest-NRL lands, [or a Hearing Examiner variance must be obtained.](#) ~~Planning and Development Services may administratively reduce this setback in lieu of a signed waiver from the neighboring NRL landowner where the lot's size and configuration would otherwise preclude reasonable development of the property. To reduce this setback, the Administrative Official must determine that the public health, safety, and welfare will be maintained. The acknowledgement and waiver discussed herein shall be recorded by the applicant with the County Auditor.~~

Commented [RW-P27]: The effect of this addition and the deletion of these lines is that a Hearing Examiner variance would be required to vary from this subsection. This implements PC recommendation 35.

(8) ~~Planning and Development Services may administratively reduce setbacks within Natural Resource Lands; provided, that the Administrative Official determines that the public health, safety, and welfare will be maintained. Such Administrative reductions are permitted where~~ [The Administrative Official may reduce setbacks within Natural Resource Lands when](#) 1 or more of the following situations would otherwise preclude reasonable development of the property:

Commented [A28]: This standard is contained within 14.10.

- (a) Existing Structures. Existing structures are located within the setback area, and allowing new structures to be located within the setback area close to the existing structures will assist in resource operations.
- (b) Road Right-of-Way as Part of Building Setback Calculation. Where a Natural Resource Land abuts right-of-way, the Administrative Official may reduce the setback by including the right-of-way footage in the setback calculation.

14.16.830 Landscaping requirements.

- (1) – (5) *No change.*
- (6) General Standards. The following general standards will be required in all districts where landscaping is required:
 - (a) – (h) *No change.*
 - (i) Alternative landscape plans ~~may be submitted which that~~ differ from the requirements contained in this Section [may be approved as a Level I variance per SCC 14.10.](#) ~~The Administrative Official shall make an administrative decision to approve or deny the landscape plan pursuant to a Level I process.~~ All plans shall demonstrate how they meet the intent as outlined in this Section or that a hardship exists because of lot topography, size, or location.
 - (j) *No change.*

C-20 and C-21 Home-Based Business

Wherever "home based business" or its variants appear in SCC Title 14, hyphenate "home-based."

SCC 14.16.730 ~~Home-Based Business 1~~ Home-Based Businesses

- (1) There are 3 types of ~~Home-Home~~-Based Businesses: ~~Home-Based Business 1, Home-Based Business 2, and Home-Based Business 3.~~ Home Based Business 2 and 3 require a special use permit, and are discussed in SCC 14.16.900. Uses specifically identified in this Chapter ~~shall only be~~are allowed in the zoning districts for which they are designated and ~~shall not be~~are not eligible for consideration as a ~~Home-Home~~-Based Business in any other zone.

(2) Home-Home-Based Business 1.

~~(2)~~(a) The use ~~must~~ shall meet the following criteria:

- ~~(a)~~(i) Is carried out exclusively by a member or members of a family residing in the dwelling unit;
- ~~(b)~~(ii) Is clearly incidental and secondary to the use of the property for dwelling purposes, with the floor area devoted to the home occupation not exceeding 25% of the living area of the dwelling unit (business activity may be conducted in buildings other than the dwelling, provided that the size of such use does not exceed 25% of the living area of the dwelling unit);
- ~~(c)~~(iii) Has no outside storage, no outside signs of any size or type, nor other exterior indication of the home occupation or variation from the residential character of the property;
- ~~(d)~~(iv) Does not require the installation of heavy equipment, large power tools or power sources not common to a residential dwelling;
- ~~(e)~~(v) Does not create a level of noise, vibration, smoke, dust, odors, heat or glare beyond that which is common to a residential area; and
- ~~(f)~~(vi) Does not have clients come to the site.

(b) The intent of this use category is to allow a ~~home-home~~-based business to operate with the above-noted limitations. When the business grows beyond the criteria established above, the business shall apply for a ~~Home-Home~~-Based Business 2 or 3 special use permit (if allowed by the applicable zone) or shall relocate to a zoning classification which would permit the activity. Special use permits issued after June 1, 1997, shall not be used as justification for Comprehensive Plan amendment and/or rezone requests.

(3) Home-Based Business 2.

~~(a)~~(a) Special use permits are subject to the following criteria:

- (i) Is carried out by a member or members of a family residing in the dwelling;
- (ii) Is clearly incidental and secondary to the use of the property for dwelling purposes (business activity may be conducted in buildings other than the dwelling, provided that the size of such use does not exceed 50% of the living area of the dwelling unit);

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- (iii) Has no outside storage nor other exterior indication of the home occupation or variation from the residential character of the property with the exception of 1 sign not to exceed 4 square feet, provided such sign shall not be illuminated;
- (iv) Does not require the installation of heavy equipment, large power tools or power sources not common to a residential dwelling;
- (v) Does not create a level of electrical interference, line voltage fluctuation, noise, vibration, smoke, dust, odors, heat, glare, traffic and other environmental impacts beyond that which is common to a residential area;
- (vi) Does not create a level of parking demand beyond that which is normal to a residential area;
- (vii) May have clients come to the site;
- (viii) If established after June 1, 1997, shall not be used as justification for future Comprehensive Plan amendment and/or rezone requests.

(b) It should be noted that the The intent of this category of special uses is to allow home-based businesses to operate with the above-noted limitations. When the business grows beyond the criteria established above and the conditions included in any approval, the business shall relocate to a zoning classification which would permit the activity.

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(4) Home-Based Business 3.

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~~(a)~~ (a) Special use permits are subject to the following criteria:

- (i) Is carried out by a member or members of a family residing in the dwelling and may include up to 3 additional employees;
- (ii) Is clearly incidental and secondary to the use of the property for dwelling purposes;
- (iii) The business activity may be conducted in buildings other than the dwelling; provided, that the size of such building shall be consistent with the residential area and such building is properly permitted for the use;
- (iv) Has no outside storage nor other exterior indication of the home occupation or variation from the residential character of the property with the exception of 1 sign not to exceed 4 square feet, provided such sign shall not be illuminated;
- (v) Does not create a level of electrical interference, line voltage fluctuation, noise, vibration, smoke, dust, odors, heat, glare, traffic and other environmental impacts beyond that which is common to a residential area;
- (vi) Does not create a level of parking demand beyond that which is normal to a residential area;
- (vii) May have clients come to the site;
- (viii) If established after June 1, 1997, shall not be used as justification for future Comprehensive Plan amendment and/or rezone requests.

(b) It should be noted that the The intent of this category of special uses is to allow home-based businesses to operate with the above-noted limitations. When the business

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grows beyond the criteria established above and the conditions included in any approval, the business shall relocate to a zoning classification which would permit the activity.

14.16.900 Special use permit requirements.

- (1) Special Uses. [No change]
- (2) Special Uses with Specific Criteria.
 - (a) *No change.*
 - (b) *No change.*
 - (c) *No change.*
 - (d) *No change.*

(e) Home-Based Business 2. See SCC 14.16.730.

(f) Home-Based Business 3. See SCC 14.16.730.

~~(e)(g) Home Based Business 2. Special use permits are subject to the following criteria:~~

- ~~(i) Is carried out by a member or members of a family residing in the dwelling;~~
- ~~(ii) Is clearly incidental and secondary to the use of the property for dwelling purposes;~~
- ~~(iii) Has no outside storage nor other exterior indication of the home occupation or variation from the residential character of the property with the exception of a sign not to exceed 4 square feet, provided such sign shall not be illuminated;~~
- ~~(iv) Does not require the installation of heavy equipment, large power tools or power sources not common to a residential dwelling;~~
- ~~(v) Does not create a level of electrical interference, line voltage fluctuation, noise, vibration, smoke, dust, odors, heat, glare, traffic and other environmental impacts beyond that which is common to a residential area;~~
- ~~(vi) Does not create a level of parking demand beyond that which is normal to a residential area;~~
- ~~(vii) May have clients come to the site;~~
- ~~(viii) If established after June 1, 1997, shall not be used as justification for future Comprehensive Plan amendment and/or rezone requests.~~

~~It should be noted that the intent of this category of special uses is to allow home based businesses to operate with the above noted limitations. When the business grows beyond the criteria established above and the conditions included in any approval, the business shall relocate to a zoning classification which would permit the activity.~~

~~(f)(h) Home Based Business 3. Special use permits are subject to the following criteria:~~

- ~~(i) Is carried out by a member or members of a family residing in the dwelling and may include up to 3 additional employees;~~

- (ii) ~~Is clearly incidental and secondary to the use of the property for dwelling purposes;~~
- (iii) ~~The business activity may be conducted in buildings other than the dwelling; provided, that the size of such building shall be consistent with the residential area and such building is properly permitted for the use;~~
- (iv) ~~Has no outside storage nor other exterior indication of the home occupation or variation from the residential character of the property with the exception of a sign not to exceed 4 square feet, provided such sign shall not be illuminated;~~
- (v) ~~Does not create a level of electrical interference, line voltage fluctuation, noise, vibration, smoke, dust, odors, heat, glare, traffic and other environmental impacts beyond that which is common to a residential area;~~
- (vi) ~~Does not create a level of parking demand beyond that which is normal to a residential area;~~
- (vii) ~~May have clients come to the site;~~
- (viii) ~~If established after June 1, 1997, shall not be used as justification for future Comprehensive Plan amendment and/or rezone requests.~~

~~It should be noted that the intent of this category of special uses is to allow home based businesses to operate with the above noted limitations. When the business grows beyond the criteria established above and the conditions included in any approval, the business shall relocate to a zoning classification which would permit the activity.~~

14.16.400 Agricultural—Natural Resource Lands (Ag-NRL).

- (1) *No change.*
- (2) *No change.*
- (3) *No change.*
- (4) Hearing Examiner Special Uses.
 - (a) – (d). *No change.*
 - (e) **Home Based Business 3, provided the use is accessory to an actively managed, ongoing agricultural operation and no conversion of agricultural land is required to accommodate the business activity.**
 - (f) – (o) *No change.*
- (5) *No change.*
- (6) *No change.*
- (7) *No change.*

Commented [RW-P29]: Addresses PC recommendation #19.

C-22 Setbacks for Fences

14.04.020 Definitions

Modify the definition of “setback” as follows:

Setback: a line generally parallel with and measured from the lot line, existing or planned street or road right-of-way, easement or driven surface (whichever is most restrictive) defining the limits of an area in which no above-ground buildings, structures or junk may be located. ~~Setbacks do not apply to fences 6 feet or less in height, retaining walls 4 feet or less in height, landscaping, freestanding signs, or paved areas. See SCC 14.16.810.~~

SCC 14.16.810 Setback Requirements

(1) [Applicability.](#)

(a) All structures must meet minimum horizontal setback requirements of the applicable zone.

(b) ~~Setbacks do not apply to fences 6 feet or less in height, retaining walls 4 feet or less in height, landscaping, freestanding signs, or paved areas, unless otherwise provided.~~ [fences 8 feet or less in height in the commercial–industrial or aviation-related zones, retaining walls 4 feet or less in height, landscaping, freestanding signs, or paved areas, unless otherwise provided.](#)

(2)–(8) *No change.*

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C-23 Adult group care facility

14.04.020 Definitions

Modify the definition of “adult group care facility” as follows:

Adult group care facility: an establishment providing full-time care for more than 5 patients, convalescents, invalids, or aged persons. Such establishment ~~shall~~ [must](#) be ~~duly~~ licensed by the State of Washington ~~as a nursing home~~ in accordance with current State statutes. Adult family homes regulated pursuant to Chapter 70.128 RCW and living quarters for unrelated, handicapped individuals protected under the Federal Fair Housing Amendments Act and RCW 35A.63.240 shall not be considered adult group care facilities for purposes of this Title.

C-24 Concurrency

SCC 14.04.020 Definitions

The following concurrency-related definitions are retained or amended in SCC Chapter 14.04.020:

Available capacity: capacity in a concurrency facility or service that is available for use without requiring facility construction, expansion or modification or will be available at project occupancy as a result of a committed improvement.

Certificate of capacity: a document issued by Planning and Development Services indicating the quantity of traffic impacts on County roads and the quantity of capacity for non-transportation concurrency facilities and services that has been reserved for a specific development project on a specific property.

Concurrency determination: ~~a concurrency determination for roads or a concurrency determination for non-transportation facilities and services~~ [a determination that compares a proposed project’s impact on a given facility to the capacity of such facility, taking into account available facility capacity and any mitigation measures proposed by the applicant.](#)

Concurrency facilities and services: the facilities and services for which project concurrency review is required in accordance with the provisions of ~~this SCC Chapter 14.28~~. All of the concurrency facilities and services other than County roads are referred to as non-transportation concurrency facilities and services.

Concurrency facility and service providers: the County department or other governmental entity responsible for providing the applicable service or facility to a development project subject to project concurrency review, ~~as listed in SCC 14.28.110 under this Title. All of the concurrency facility and service providers providing facilities and services other than County roads are referred to as non-transportation concurrency facilities and services providers.~~

Final concurrency decision: a decision made by the project permit decision maker that there is or is not concurrency.

Funded projects: transportation improvement projects for which a financial commitment is in place to complete the improvements or TSM strategies within 6 years of the date the final concurrency decision is to be made. Each year, projects are to be designated as “funded” by the Board of County Commissioners at the time of adoption of the 6-Year Transportation Improvement Program.

Project concurrency review: a system of reviewing specific development projects to ensure that development permits are issued only after it is demonstrated that the levels of service on concurrency facilities and services will not be degraded below the adopted level of service standards for these facilities and services. This system involves an application filed by the permit applicant, a concurrency determination for facilities and service made by the concurrency facility and service provider and a final concurrency decision made by the project permit decision maker.

The following definitions are deleted from SCC Chapter 14.04.020:

Birdsall method: a level of service (LOS) methodology that is used by Skagit County to determine Road System Concurrency. This method uses “Planned Capacity” rather than “Physical Capacity” in determining roadway improvement needs. Roadways have an unmet need where the ratio of peak hour traffic (V) to planned capacity (PC) is greater than 1 ($V/PC > 1.0$). (For a detailed discussion of this concept, see Ch. V, Level of Service Standards, in the Transportation System Plan.)

Commented [A30]: This term was only used in other concurrency definitions, and is now explained in the Chapter where it is relevant.

Committed improvement: a legally binding commitment that a specific amount of capacity will be added to a concurrency facility or service by a specific date.

Commented [A31]: This term is not used anywhere in the County code except in the definition of available capacity and concurrency decision.

Concurrency decision: a decision that a proposed land development will not cause the level of service on a concurrency facility and service to decline below adopted levels of service standards, taking into account the available capacity, the capacity used by the proposed development, the capacity tentatively reserved by other pending development permit applications, the capacity reserved in certificates of capacity issued to projects that are not yet built, the capacity to be used by other growth estimated to occur, the capacity to be added by committed improvements that will be in place at the time the capacity is needed by the proposed development, and, in the case of transportation concurrency, the capacity to be added by funded projects.

Commented [A32]: This definition is not used, although “final concurrency decision is used.” This definition is not quite correct, either, because a decision might be positive or negative.

Concurrency determination for non-transportation facilities and services: a concurrency determination made by the non-transportation facility provider which compares an applicant’s impact on that provider’s facilities to the capacity of such facilities, taking into account available facility capacity and any mitigation measures proposed by the applicant.

Commented [A33]: Now captured by definition of “concurrency determination.”

Concurrency determination for roads: a determination of concurrency made by the Department of Public Works which compares an applicant's impact on County roads to the capacity of the County roads, taking into account available and planned capacity and any mitigation measures proposed by the applicant. Two separate methodologies are used: the Birdsall method for evaluating road system concurrency, and the Highway Capacity Manual for evaluating individual road concurrency.

Commented [A34]: Now explained in the place it is used.

High traffic County road intersections: any County road intersection into which the total approach volume is at least 7,000 average daily trips and the approach volume from all of the minor legs totals at least 1,000 average daily trips.

Commented [A35]: Explained in the one place it is used.

High traffic County road segments: any County road segment on which there are at least 8,000 average daily trips.

Commented [A36]: Explained in the one place it is used.

Highway Capacity Manual (HCM): a document which presents a collection of techniques for determining lane capacity and the best methodologies available at the time of publication for determining congestion based on quality of service or level of service for streets, roads, and highways.

Commented [A37]: Now explained where it is used.

Individual road concurrency: concurrency based on traditional A through F LOS rankings related to specific County road segments and to County road intersections using the Highway Capacity Manual.

Commented [A38]: Definition is explained in the one place this term is used.

Project occupancy: the time when a development project is ready to be occupied and will use concurrency facilities and services. It shall be assumed that the entire proposed development will be occupied upon issuance of the initial occupancy permit for the project.

Commented [A39]: Now explained where it is used.

Road system concurrency: concurrency related to the entire County road system rather than individual road segments or individual road intersections. This concept is used in the Birdsall method.

Commented [A40]: This term is used only in other definitions.

Chapter 14.28 is revised to read as follows:

14.28.010 Purpose.

(1) Pursuant to the State Growth Management Act, Chapter 36.70A RCW, after the adoption of its Comprehensive Plan, Skagit County is required by RCW 36.70A.070(6)(e) and the planning goals of RCW 36.70A.020 to ensure that transportation improvements or transportation systems management strategies to accommodate the impacts of development are in place at the time when a project is first occupied, or that a financial commitment is in place to complete the improvements or transportation systems management strategies within 6 years. ~~The County is also bound by the planning goals of RCW 36.70A.020 to ensure that public facilities and services necessary to support development are adequate to serve the development at project occupancy.~~

(2) Concurrency for certain urban and rural public facilities and services is ~~assured~~ ensured by the implementation of the Capital Facilities Plan, the County's monitoring and annual review of that plan, and the County's response in the absence of concurrency. Certain public facilities and services also need to be analyzed before the County can issue a project permit for a specific development. This Chapter addresses both the annual concurrency review process and the system whereby individual development projects are examined for concurrency and development permits are issued only after it is demonstrated that the levels of service will not be degraded below the adopted level of service standards for these facilities and services.

14.28.020 ~~Development exempt from project concurrency review.~~ Applicability.

~~All development shall undergo project concurrency review unless specifically exempt as follows:~~

(1) This chapter applies to all development except the following:

(a) Exempt Development Permits. The following development permits are exempt from project concurrency review:

- (i) Boundary line adjustment.
- (ii) Final subdivision (if a concurrency test was conducted for the corresponding preliminary subdivision).
- (iii) Rezone (but not including a contract rezone which establishes a specific timeline for constructing the specific use and a deadline for such construction after which the contract rezone expires).
- (iv) Shoreline substantial development variance.
- (v) Street vacation.
- (vi) Temporary use permit.
- (vii) Variance.

(b) Exempt Types or Levels of Development. Permits for the following types or levels of development are exempt from project concurrency review:

- (i) Single-family dwelling unit.
- (ii) Duplex.
- (iii) Accessory dwelling unit.
- (iv) Any addition to, renovation or replacement of a residential structure with no change in use and no more than 1 additional dwelling unit added, such as reroofing.
- (v) Any accessory structure with no change in use and no more than 1 additional dwelling unit added.
- (vi) Interior completion of a structure for a use with the same or less intensity as the existing use or a previously approved use.
- (vii) Temporary construction trailer.
- (viii) Driveway, resurfacing, or parking lot paving.
- (ix) Demolition.
- (x) Any other permit or approval that the Administrative Official determines has no impact on a concurrency facility or service.

(2) Exemption from Obtaining Concurrency Determination for Roads transportation. Any development generating a total of 4 or less peak-hour trips from the total project shall be exempt from obtaining a concurrency determination for roads transportation, but shall not be exempt from obtaining

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a concurrency determination for non-transportation facilities and services and shall also not be exempt from providing appropriate transportation improvements or mitigation for traffic impacts in the immediate vicinity of the project as may be required by Chapter 14.16, 14.18, or 14.36 SCC.

~~(4) Projects in Municipal Urban Growth Areas. Any proposed project within a municipal urban growth area that is permitted without an urban reserve development permit under SCC 14.16.910 shall be subject to the concurrency review requirements of this Chapter. Any project within the municipal urban growth area that may only be permitted with an urban reserve development permit under those same code sections shall not be subject to concurrency review under this Chapter, but instead shall be subject to any concurrency requirements for the city in whose UGA the property is located.~~

Commented [A41]: Stated in the table in 14.28.040(2).

~~(5) Tracking Exempt Development. Concurrency facility and service providers shall must establish a tracking system to account for exempt development in the same manner as certificates of capacity are used to maintain an accounting of traffic impacts on County roads and capacity for non-transportation concurrency facilities and services that have been reserved.~~

Commented [A42]: Moved to 14.28.080.

14.28.030 Concurrency facilities and services.

Commented [A43]: Moved to 14.28.040(2) and reconstituted as a table.

The following concurrency facilities and services, if used by the proposed development, must be evaluated during project concurrency review:

~~(1) In rural areas and municipal UGAs where an urban reserve development permit under SCC 14.16.910 is not required: County roads, public water systems, police, and fire.~~

~~(2) In Big Lake Rural Village and Swinomish UGA: County roads, public water systems, police, fire, and sanitary sewer.~~

~~(3) In Bayview Ridge UGA: County roads, public water systems, police, fire, sanitary sewer, and stormwater.~~

~~(4)(3) In municipal UGAs where an urban reserve development permit under SCC 14.16.910 is required: City ordinances. See Chapter 14.02 SCC.~~

14.28.040 Project concurrency review.

- (1) Timing. All applicants for development permits, except those exempt, ~~shall~~must apply for project concurrency review at the time the applicant submits the applications for development project permits ~~are submitted~~. Inquiries about availability of capacity on concurrency facilities and services may be made prior to development permit applications, but responses to such inquires are advisory only and available capacity can only be reserved through a certificate of capacity as set forth in this Chapter.

(2) Concurrency facilities and services. The following concurrency facilities and services, if used by the proposed development, must be evaluated during project concurrency review:

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<u>Location</u>	<u>County roads</u>	<u>Public water</u>	<u>Police</u>	<u>Fire</u>	<u>Sewer</u>	<u>Storm-water</u>
<u>Bayview Ridge UGA</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Big Lake Rural Village and Swinomish UGA</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>
<u>Other rural areas</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>
<u>Municipal UGAs where an urban reserve development permit is not required</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>No</u>
<u>Municipal UGAs where an urban reserve</u>	<u>See city requirements and SCC 14.16.910</u>					

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development permit is required

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~~(2)~~(3) Procedures.

- (a) Applications for project concurrency review ~~shall~~must be submitted on forms provided by Planning and Development Services.
- (b) Project concurrency review ~~shall~~must be performed for the specific property, uses, densities, and intensities based on the information provided by the applicant. The applicant shall specify densities and intensities that are consistent with the uses allowed or to be vested for the property. If the project concurrency review is being requested in conjunction with a contract rezone, the applicant ~~shall~~must specify the densities and intensities consistent with the proposed contract zoning for the property.
- (c) Upon receipt of a complete application for a development permit, there shall be a tentative reservation of traffic impacts on County roads and a tentative reservation of capacity for non-transportation concurrency facilities and services that will serve that development in order to account for the potential future traffic impacts and future use of capacity by that development. That tentative reservation shall convert to a final reservation of traffic impacts/capacity upon issuance of a certificate of capacity or shall become void in the event that project permits for the development are not issued.
- (d) Planning and Development Services shall notify the concurrency facility and services providers of all applications received requiring project concurrency review and request a concurrency determination.
- (e) The concurrency facility and service providers shall notify the applicant and Planning and Development Services of the results of the concurrency determination within 30 days. If additional information is needed to determine concurrency, such additional information may be requested by the concurrency facility and service provider, but such request shall not make the original application to be deemed incomplete.
- (f) The decision maker for the project permit(s) shall make a final concurrency decision as part of the development permit decision(s) based on the concurrency determination and all relevant evidence presented in the public record on the project permit. The development permit may be conditioned as necessary to ensure that an improvement relied upon to demonstrate concurrency will be completed or a transportation systems management strategy will be implemented in the required time frame. The final concurrency decision shall be a part of the permit decision which is appealable pursuant to Chapter 14.06 SCC.
- (g) If the decision maker concludes that there is no concurrency and the project permit cannot be conditioned to accomplish concurrency, the project permits shall be denied.
- (h) If the decision maker concludes that there is concurrency and issues project permits, Planning and Development Services shall issue a certificate of capacity to the applicant with a copy sent to each concurrency facility and service provider. The certificate of capacity shall be used to maintain an accounting of traffic impacts on County roads and capacity for non-transportation concurrency facilities and services that have been reserved.
- (i) If the development permit for a project is withdrawn, expires or is otherwise cancelled, the certificate of capacity for that development shall automatically be voided. Planning

and Development Services shall send notice of all voided certificates of capacity to each concurrency facility and service provider.

~~(3)~~(4) Administrative Rules. The Administrative Official may, by administrative order, establish administrative rules to manage project concurrency review.

~~(4)~~(5) Relation to Other Requirements. Compliance with or exemption from the requirements of this Chapter ~~shall~~ does not exempt a development project from compliance with ~~all~~ any other requirements of the Unified Development Code including, but not limited to, compliance with SCC Chapters 14.12 (SEPA), 14.30 (Public Facilities Impact Fees), 14.32 (Stormwater Management), and 14.36 (Public Works Standards) ~~SCC~~.

14.28.050 Phased development.

(1) When a development is proposed in phases or construction is expected to extend over some period of time, the applicant may offer a schedule of occupancy that limits the occupancy during any given period of time. When there is such an offer, the schedule of occupancy ~~shall~~ may be used in identifying the improvements or transportation systems management strategies that will be required to be implemented with each phase or time period of the development to comply with project concurrency review.

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(2) All permits based upon a schedule of occupancy ~~shall~~ must be conditioned so that the improvements or transportation systems management strategies identified as being necessary to comply with project concurrency review are completed prior to each identified development phase (e.g., final plat approval, phased building permit). When an applicant is relying on funded projects to demonstrate transportation concurrency, the funded projects necessary for concurrency with the level of service standards must be identified at the time of the final concurrency decision.

14.28.060 ~~Concurrency determination—Transportation concurrency.~~

(1) A project ~~concurrency determination for roads~~ must demonstrate concurrency with the County road segment and road intersection level of service standards as follows:

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(a) The project's impact on County roads must be compared to the capacity of the County roads, taking into account available and planned capacity and any mitigation measures proposed by the applicant.

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(b) Two separate methodologies are used:

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(i) For evaluating road system concurrency, the Birdsall method, which uses "Planned Capacity" rather than "Physical Capacity" in determining roadway improvement needs. Roadways have an unmet need where the ratio of peak hour traffic (V) to planned capacity (PC) is greater than 1 (V/PC > 1.0).

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~~(1)~~(ii) For evaluating individual road concurrency, the Highway Capacity Manual, a document which presents a collection of techniques for determining lane capacity and the best methodologies available at the time of publication for determining congestion based on quality of service or level of service for streets, roads, and highways. The Highway Capacity Manual type methods selected by the County Engineer shall be used to assess individual road segments and intersections capacity.

- (2) The annual concurrency report for County roads (see SCC 14.28.110) will provide the basic starting information for this assessment.
- (3) Traffic information used for the annual report shall be updated as necessary to account for traffic levels from the following development projects if these projects were not considered in the last annual report:
 - (a) Traffic from newly constructed development projects;
 - (b) Projects for which traffic impacts have been tentatively reserved; and
 - (c) Projects for which a final concurrency decision has been made.
- (4) The traffic information used for the annual report shall also be updated and reserved traffic impacts removed as necessary as a result of any discontinued certificates of concurrency and any funded projects after the last annual report.
- (5) Each affected County road segment and affected County intersection shall be reviewed and if necessary analyzed. The applicant may be required to provide a traffic analysis if existing information does not provide adequate information for this assessment.
- (6) There is concurrency with the individual road segment and intersection level of service standards if, taking into account funded projects:
 - (a) The level of service on each affected County road segment and each affected County intersection will meet or exceed the standards adopted in the Comprehensive Plan and, if applicable, the Bayview Ridge Subarea Plan; or
 - (b) The applicant agrees to modify the project or provide transportation improvements or transportation systems management strategies and/or other binding financial commitments that will result in the level of service on each affected County road segment and each affected County intersection meeting or exceeding the standards adopted in the Comprehensive Plan and, if applicable, the Bayview Ridge Subarea Plan.

14.28.070 Concurrency Determination—Non-transportation ~~concurrency~~.

- (1) Development projects required to obtain a concurrency determination for non-transportation concurrency facilities and services shall demonstrate that there is concurrency with each non-transportation concurrency facilities and services as ~~follows:~~ described in the LOS table in the Comprehensive Plan Capital Facilities Element and as follows:
 - (a) ~~For~~-Water. If the project is within the service area for a public water system as identified in the Coordinated Water Services Plan (CWSP), the applicant ~~has~~-must provide a letter of water availability from the applicable water system purveyor and the project ~~is~~-must be conditioned as appropriate to provide water system improvements necessary to meet the applicable urban or rural LOS standards ~~as set forth in Appendix A~~. If the project is within the Bayview Ridge UGA, the property owner ~~shall~~-must connect to the PUD No. 1 water system.
 - (b) ~~For~~-Sewer. If the project is within an area approved for public sanitary sewer ~~pursuant to the Skagit County Code~~ and the applicable sewer purveyor's Comprehensive Plan, ~~and~~ the applicant must ~~provides~~ a letter of sewer availability from the applicable purveyor demonstrating the project complies with all requirements of that purveyor for obtaining sewer service, including any conditions as appropriate for improvements necessary to meet the applicable standards adopted by that purveyor. If the project is

within the Bayview Ridge UGA, the owner must submit confirmation of sewer availability from the City of Burlington prior to development approval and must connect to the existing sewer line or extend the line to serve the project.

~~(c) For Police.~~

~~(i) In Urban Growth Areas. One officer per 1,000 population served or per 100 acres of developed commercial or industrial property, whichever is higher.~~

~~(ii) In Rural Areas. One officer per 2,000 population served.~~

~~(d) For Fire.~~

~~(i) In Urban Growth Areas. The project provides fire flow in accordance with the CWSP (Section 4, Minimum Design Standards) and International Fire Code; the provider has the capability for annual inspections of all commercial and industrial facilities and has an ISO grading of 5 or better, or has the ability to comply with the following 90% of the time:~~

~~(A) Within 5 minutes response time, delivering up to 200 gallons per minute (gpm) fire flow in an offensive (interior) attack, with a minimum of 4 firefighters for responses to structural fires, vehicle fires, other outside fires, motor vehicle accidents, activated fire alarm systems or other hazardous conditions; capable of delivering a minimum of basic life support including defibrillation with a minimum of 1 first responder or emergency medical technician for medical responses.~~

~~(B) Within 10 minutes response time, supporting the interior structural fire attack with teams which may include a ventilation team, a search and rescue team, a team for a backup line and standby firefighters totaling between 8 and 12 firefighters on scene; providing heavy rescue capability, including heavy hydraulics, at motor vehicle accidents.~~

~~(C) Within 20 minutes response time, delivering 1,500 gpm fire flows in a sustained defensive attack mode for structural fire responses. For buildings larger than 10,000 square feet, delivering 2,000 gpm and have an elevated master stream capability.~~

~~(ii) In Non Urban Growth Areas. The project provides fire flow in accordance with the CWSP (Section 4, Minimum Design Standards) and International Fire Code; and the provider has a Washington Surveying and Rating Bureau (WSRB) public protection classification No. 8 or better. The one exception to the requirements for fire flow and the WSRB classification of No. 8 or better is residential subdivision and construction of single family dwellings on certain saltwater islands, as further described in SCC 14.16.850(6)(b)(iv). Within an IF-NRL designation, the project must also be within 5 road miles from a recognized Community A fire station, or within 10 road miles to a recognized Community A fire station and within 5 road miles of a fire station having an initial attack fire apparatus.~~

~~(e)(c) For Stormwater. The property owner shall must construct surface and stormwater management improvements as determined by the County to be consistent with the surface water management standards found in SCC Chapter 14.32 SCC, Stormwater~~

Commented [A44]: These LOS are specified in the Comprehensive Plan.

Management. Surface and stormwater management improvements ~~shall~~must be constructed consistent with the adopted Bay View Watershed Stormwater Management Plan Phase 1.

- (2) Non-transportation concurrency facility and service providers shall be responsible for maintaining and monitoring the available capacity for their facility for the purpose of responding to requests for project concurrency determinations and for responding to requests by the County during the annual concurrency determination. The providers shall take into account existing use of their facility, additional use from anticipated growth, new projects for which capacity has been tentatively reserved and new projects for which a final concurrency decision has been made, and additional capacity available as a result of any discontinued certificate of capacity and capacity improvements that are funded and under construction.
- (3) To demonstrate concurrency with each of the non-transportation concurrency facilities and services, the applicant may:
 - (a) Demonstrate that the development will have a lower need for capacity than usual; or
 - (b) Modify the application to reduce the need for capacity; or
 - (c) Offer binding mitigation measures that will provide additional capacity necessary to maintain the level of service standard upon project occupancy, i.e., the time when a development project is ready to be occupied and will use concurrency facilities and services. It shall be assumed that the entire proposed development will be occupied upon issuance of the initial occupancy permit for the project.

14.28.080 Certificate of capacity.

(1) A certificate of capacity:

~~(1)~~(a) ~~shall~~may only be issued upon payment of any ~~concurrency~~ fee due to the service provide and performance of any precondition established in the permit decision as a prerequisite for obtaining such certificate.

~~(2)~~(b) ~~A certificate of capacity shall apply~~applies only to the specific land uses, densities, intensities and development projects described in the application and development permit.

~~(3)~~(c) ~~A certificate of capacity~~ is not transferable to other property, but may be transferred to new owners of the same property.

~~(4)~~(d) ~~A certificate of capacity shall remain~~is valid so long as the accompanying development permit has not expired or been revoked.

~~(5)~~(e) ~~A certificate of capacity~~ is valid for any modification of the permits for which the certificate was issued so long as such modification does not require the applicant to obtain a new development permit.

~~(6)~~(2) Any capacity that is not used because the full extent of the development is not built ~~shall~~must be returned to the pool of available capacity.

(3) Tracking Exempt Development. Concurrency facility and service providers must establish a tracking system to account for exempt development in the same manner as certificates of capacity are used to maintain an accounting of traffic impacts on County roads and capacity for non-transportation concurrency facilities and services that have been reserved.

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Commented [A45]: Moved from applicability.

14.28.090 Facility capacity fees.

~~Concurrency facility and service providers may charge concurrency fees based upon an adopted fee schedule.~~

Commented [A46]: Covered in 14.28.080(1)(a).

14.28.100 Development within municipal UGAs.

- (1) ~~It is the responsibility of a city or town to perform project~~ Project concurrency review for development within the unincorporated portion of a city's ~~or~~ town's urban growth area ~~shall be the responsibility of that city or town pursuant to the concurrency regulations of that city or town.~~ The County, in its annual concurrency review, ~~shall~~ must assess concurrency within the unincorporated portions of all urban growth areas.
- (2) Consistent with SCC 14.02.040, Applicability, the County ~~shall~~ must review and condition development permit applications to ensure that project impacts occurring outside of municipal UGAs are mitigated consistent with County road standards and transportation concurrency requirements of SCC 14.28.060. Skagit County ~~shall~~ must make a final concurrency determination as part of the permit decision pursuant to SCC 14.28.040(2)(f) through (i) and issue a certificate of capacity pursuant to SCC 14.28.080 if the requirements of this Chapter are met.

14.28.110 Annual concurrency assessment.

- (1) Annual Concurrency Assessment for Roads. The County Engineer ~~shall~~ must produce ~~an~~ a concurrency report for County roads ~~by July 1 of each year, which will~~ to update the status of County roads with respect to concurrency.
 - ~~(a) Individual Road Concurrency. By July 1st of each year, the Skagit County Public Works Department, under the direction of the~~ The County Engineer, ~~shall~~ must evaluate the high traffic County road segments ~~(any County road segment on which there are at least 8,000 average daily trips)~~ and high traffic County road intersections ~~(any County road intersection into which the total approach volume is at least 7,000 average daily trips and the approach volume from all of the minor legs totals at least 1,000 average daily trips)~~ using a Highway Capacity Manual type method (as selected by the County Engineer) to determine whether these road segments and intersections comply with the level of service standards adopted in the Comprehensive Plan.
 - ~~(b)~~ This evaluation ~~shall~~ must be based on existing traffic levels plus traffic impacts from development plus traffic impacts from development projects anticipated for completion within the next year based upon a growth projection, upon consideration of projects for which traffic impacts have been tentatively reserved and upon projects for which a final concurrency decision has been made.
 - ~~(c)~~ In addition, a projection of those County road segments service standards adopted in the Comprehensive Plan over the next 5 years shall be made to help in the planning for road system improvement projects.
 - ~~(a)~~ ~~(d)~~ Any County road segment or County road intersection, which has fallen below the level of service standards adopted in the Comprehensive Plan, shall be considered concurrent if an improvement project will cause that road segment or intersection to meet or exceed the adopted level of service standards and has been designated on the 6-Year

TIP as a funded project. The results of the annual update for individual road concurrency shall be included in the annual report.

(2) Annual Concurrency Assessment for Non-Transportation Concurrency Facilities and Services.

- (a) By ~~January 31st~~ July 1 of each year, the following concurrency facility and service providers ~~shall~~ must report to the County the total available capacity of their facility or service in units that are directly comparable to the level of service standards established for these facilities and services.

Facility/Service	Provider	
	Unincorporated Urban Growth Area	Rural
Water	Water purveyors identified in Coordinated Water System Plan	
Sanitary Sewer	Municipal sewer service providers Skagit County Sewer District—1 for portions of Swinomish UGA City of Burlington—Bayview Ridge UGA	Big Lake Sewer District for Big Lake Rural Village only Whatcom County Water District No. 12 pursuant to existing sewer service contracts only
Stormwater	County Public Works	
Police	County Sheriff	
Fire	Fire Districts	
Fairgrounds	County Parks Department	
General Government	County Administrator	
Parks	County Parks Department	
Public Safety (jails)	County Sheriff	
Senior Centers	County Senior Services	
Solid Waste	County Public Works	

- (b) The annual information submitted by each provider shall take into account current capacity usage, capacity tentatively reserved for pending permit applications, capacity reserved for permitted projects that are not yet fully occupied based upon final concurrency decisions, capacity available as a result of expired, withdrawn or revoked final concurrency decisions and capacity that has been added by the implementation of improvements and strategies.
- (c) By ~~July 1st~~ October 1 of each year, the Administrative Official must evaluate capacity of the facilities and services set forth above ~~shall be evaluated by the Administrative Official~~ to determine if the level of service standards for each of these facilities and services is being met. The level of service standards to be used in this annual review are ~~as follows~~ set in the Comprehensive Plan Capital Facilities Element:

Delete Facility/Service and LOS table.

- (3) Results of Concurrency Assessment.
 - (a) The Administrative Official ~~shall~~ must present the annual concurrency assessment to the Board of County Commissioners ~~prior to~~ at or before the start of the annual budget process along with recommendations on actions to take in response to the assessment.
 - (b) The results of the annual concurrency assessment ~~shall~~ must be used to update the Capital Facilities Plan and establish the County's annual budget.
 - (c) In the event that the annual concurrency assessment determines that concurrency is not being met for ~~1 or more~~ any concurrency facilities and services, the County ~~shall, as necessary,~~ must evaluate the need for modifications to adopted levels of service standards, reassess the land use element of the Comprehensive Plan, or impose additional requirements or limitations on development until concurrency is obtained.

Delete Appendix A.

C-25 Latecomers Agreements [not included]

This item is being developed through a separate process.

C-26 Guemes Island Subarea Plan

New Section 14.16.360 Guemes Island Overlay

- (1) Purpose. This Section describes additional development standards for Guemes Island.
- (2) Applicability. This Section applies to all development within all zones on Guemes Island, and is to be applied in conjunction with the underlying zoning regulations.
- (3) Permitted Uses. Reserved.
- (4) Administrative Special Uses. Reserved.
- (5) Hearing Examiner Special Uses. Reserved.
- (6) Prohibited Uses.
 - (a) Accessory Dwelling Units (ADUs) where the water source contains chloride levels greater than 25 ppm.
- (7) Dimensional Standards.
 - (a) Setbacks.
 - (i) Front setback for fences: Fences that are less than 50% opaque and more than 3 feet tall must be setback at least ten feet.
 - (ii) Side: Each side setback must be at least 8 feet. The total of both side setbacks must be at least 30 feet, or 30% of the lot width at its widest point, whichever is less.

(b) Maximum Height.

- (i) Structures: The actual height of the structure from base flood elevation may not exceed 12 feet at the side setback. The actual height of the structure from base flood elevation may increase by one foot for each foot inside the required side setback, up to a maximum actual structure height of 30 feet.

14.24.340 Aquifer recharge areas impact mitigation.

The Administrative Official and Health Officer shall review development proposals to assess aquifer(s) vulnerability and establish needed mitigation measures. Where determined to be necessary through the site assessment process, or otherwise required under SCC 14.24.310(1)(a)(iii), development approvals shall include conditions designed to prevent significant degradation of water quality or reduction in recharge to underlying aquifer(s). Mitigation for groundwater withdrawals is presented in SCC 14.24.360. The project shall not cause exceedance of the water quality standards specified in Chapter 173-200 WAC or otherwise violate the anti-degradation requirements of Chapter 173-200 WAC ~~or Skagit County's seawater intrusion policy.~~

- (1) Mitigation Plan Elements. For proposals requiring aquifer recharge area impact mitigations, in addition to adhering to any of the required mitigation measures identified above, the applicant shall develop for approval by the Administrative Official and the Health Officer a mitigation plan for the proposed development. All mitigation conditions applied to permits shall be based on all known, available, and reasonable methods of prevention, control, and treatment. Compliance with the mitigation plan shall be enforceable by the Administrative Official or Health Officer. The applicant may amend the plan with the approval of the Administrative Official and Health Officer. The Administrative Official and Health Officer may, based on performance criteria and monitoring results, require additional amendments to the plan. The mitigation plan shall contain the project's permit conditions and, as applicable:
- (a) *No change.*
 - (b) *No change.*
 - (c) *No change.*
 - (d) *No change.*
 - (e) *No change.*
 - (f) *No change.*
 - (g) Seawater Intrusion ~~Mitigation~~. Mitigation ~~shall~~ must be consistent with ~~the Skagit County Public Health Department's "Seawater Intrusion Policy" and Chapter 12.48 SCC 14.24.380 Seawater Intrusion Areas.~~
 - (h) "Sole Source Aquifer" Mitigation. ~~There shall be no density bonus for CaRD developments in areas designated as a "sole source aquifer," except where the source of water for the project is a public water system whose source is not located within the designated sole source aquifer area. See SCC 14.18.310(2).~~
 - (i) *No change.*
- (2) *No change.*
- (3) *No change.*

New Section 14.24.380 Seawater Intrusion Areas

- (1) Applicability. This section applies to wells and applications for building permits; special use permits; shoreline substantial development, variance, and conditional use permits; and land divisions in the following areas:
 - (a) areas within one-half mile of a marine shoreline; and
 - (b) the entirety of Guemes, Sinclair, Cypress, and Vendovi islands.
- (2) Application requirements.
 - (a) For wells. An application proposing use of a well must include all of the following, which must be submitted for review prior to drilling any new well:
 - (i) a site plan, including:
 - (A) a dedicated inland well site location;
 - (B) estimated depth of proposed well;
 - (C) an estimated land elevation of the well, except that if the well is within 250 feet of the shoreline, or if determined by the County hydrogeologist, the elevation of the well must be surveyed by a licensed surveyor;
 - (D) depth and chloride levels of surrounding wells;
 - (ii) a drilling plan;
 - (iii) payment of applicable fees.
 - (b) For alternative water sources. An application proposing use of an alternative water source must include the following:
 - (i) documentation of system design consistent with this section and SCC 12.48.250;
 - (ii) payment of applicable fees.
 - (c) For land divisions. In addition to any applicable requirements above, an application for a land division proposing use of a well must include the following:
 - (i) an assessment of the available groundwater, including a report from a demonstration well located so that it will represent the groundwater under the entire land division and with consideration to where other wells will be located in the land division;
 - (ii) if the proposed land division is within an area of documented chlorides in excess of 25 ppm, all well locations must be specified and spaced 100 feet or more from any other well, including wells on neighboring properties.
- (3) Development standards for alternative water sources.
 - (a) Where a known seawater intrusion problem exists, alternative sources of water are encouraged, but must comply with the requirements of SCC 12.48.250.
 - (b) Reverse osmosis (RO) systems. Any reverse osmosis (RO) system must be designed to:
 - (i) use seawater collected from the open sea as the water source; and
 - (ii) discharge effluent only to the open sea.

- (4) Development standards for wells.
- (a) Generally. For both existing and new wells, a well driller must:
- (i) install a wellhead source meter;
 - (ii) install a sounding tube to allow water level measurements;
 - (iii) set the maximum pumping rate consistent with Table 14.24.380-1;
 - (iv) conduct a pump test under the supervision of a licensed well driller or licensed hydrogeologist, consistent with the following:
 - (A) use the conservative maximum pumping rate defined in Table 14.24.380-1, or if the well driller proposes to use more than the maximum pumping rate in Table 14.24.380-1, include a hydrogeological assessment (including pump tests) using observation wells;
 - (B) pump a minimum of 350 gallons from the formation during the test;
 - (C) continue the pump test for at least 4 hours after water level stabilization has occurred, or for the timespan determined by the County hydrogeologist, whichever is longer.
- (b) Documentation of installation. The well driller must submit the following after the pump test:
- (i) well ID;
 - (ii) proof of the sounding tube installation;
 - (iii) the maximum pumping rate set;
 - (iv) a record of the static water level depth prior to starting the pump test;
 - (v) pumping rates during the pump test;
 - (vi) drawdown measurements recorded throughout the pumping test in intervals as approved by the County Hydrogeologist;
 - (vii) the time of day when the drawdown measurement was observed;
 - (viii) exact time of pump start and stop;
 - (ix) any changes in pumping rate during the test;
 - (x) measurement of water level following pump shutoff until the water level in the well recovers to at least 95% of its pre-pumping level, including time of measurement.
- (c) Documentation of elevation. Before final inspection, the applicant must submit a land elevation of the well as surveyed by a licensed surveyor.
- (d) Maximum pumping rates.
- (i) The maximum pumping rate for wells must be set consistent with the following table.
 - (ii) A maximum pumping rate other than that in the table may be set if approved by the County hydrogeologist.

Table 14.24.380-1. Maximum pumping rates.

Location	Chloride level		
	0-24 ppm	25-99 ppm	100-250* ppm
less than ½ mile from the coast for areas in (1)(a)	as determined or approved by the County hydrogeologist		
less than ½ mile from the coast for islands in (1)(b)	3 gpm	2 gpm	1 gpm
greater than ½ mile from the coast for islands in (1)(b)	3 gpm	3 gpm	3 gpm

14.18.100 General

- (1) *No change.*
- (2) *No change.*
- (3) *No change.*
- (4) *No change.*
- (5) General Requirements. The following requirements shall be met for any land division under this Chapter to be approved. In addition to these general requirements, any specific requirements relevant to each individual type of land division are found in their respective sections of this Chapter.
 - (a) – (h) *No change.*
 - (i) Evidence must be supplied from the applicable purveyor of the availability of water to serve the projects and adequate provision for sewage disposal. The method of sewage disposal shall also be provided, including soil data, if individual sewage disposal is to be used, or if public sewer or community septic disposal is used, the name of the system. If individual wells are to be utilized, documentation approving the well sites must be provided, pursuant to Chapter 12.48 SCC. [A land division within a Seawater Intrusion Area \(as defined in SCC 14.24.380\) may not propose to use a well where chloride levels are 200 ppm or greater.](#)
 - (j) – (n) *No change.*
- (6) – (10) *No change.*

C-27 Other Amendments

Existing Chapter 14.12 SEPA

Recodify chapter as chapter 16.12 State Environmental Policy Act.

Commented [A47]: This chapter applies to all county actions, not just issuance of development permits.

Existing Chapter 14.22 Records of Survey

Recodify chapter as section 14.02.090.

Commented [A48]: This chapter is very short, and doesn't make sense as an entire chapter.

Existing Chapter 14.42 Accepting Grants of Real Property

Recodify chapter as chapter 1.42 Acceptance of Real Property.

Commented [A49]: This chapter applies to anytime the County accepts real property, not just in the context of a development permit.

SCC 14.32.030 Application Requirements.

- (1) *No change.*
- (2) *No change.*
- (3) Outside the NPDES Permit Area.
 - (a) *No change.*
 - (b) The stormwater site plan must be prepared by a qualified professional and must include an offsite analysis only when the application includes any of the following:
 - ~~(i)~~ *Creation or cumulative addition greater than or equal to 5,000 square feet of impervious surface area from the pre-development conditions;*
 - ~~(ii)~~ (i) Land-disturbing activity greater than or equal to one acre;
 - ~~(iii)~~ (ii) Grading greater than or equal to 500 cubic yards;
 - ~~(iv)~~ (iii) Any improvements within County right-of-way for which the County will ultimately assume responsibility for maintenance.
 - (c) *No change.*
 - (d) *No change.*
- (4) *No change.*

SCC 15.16.010 Authorization.

The Board of Skagit County Commissioners does hereby elect to continue to operate under the provisions of the latest revised edition of the International Building Codes to include, but not be limited to, Section ~~204-113~~ which requires a Board of Appeals ~~as established in Resolution No. 4861. The Building Section which shall be under the jurisdiction of the Building Official, shall continue to operate under the authority of the Assistant Public Works Director for Community Development as established in Resolution No. 7929.~~ The Building Official is hereby authorized and directed to enforce all provisions of the International Building Codes.

Commented [A50]: This does not exist.

14.16.820 Signs.

- (1) Purpose. *No change.*
- (2) Definitions. The sign definitions outlined in the ~~2009~~ current adopted International Building Code (Appendix H) are hereby adopted by reference.
- (3) – (11) *No change.*

14.44.330 Civil penalty.

- (1) *No change.*
- (2) *No change.*
- (3) Collection of Civil Penalties.

- (a) An order to pay civil penalties is ~~only~~ valid for the penalties accrued as of the date of the order and for future penalties that accrue until a specified event.
 - (b) The Administrative Official may issue a supplemental order for additional civil penalties. That order is appealable like any other order, but only for the additional civil penalties imposed by the supplemental order.
 - (c) Per RCW 19.16.500, the Administrative Official may refer orders to pay civil penalties to collection agencies 30 days after service, and may add a reasonable fee to cover the costs of collection.
- (4) Payment of a civil penalty pursuant to this Chapter does not relieve the violator of the duty to correct the violation.

Commented [A51]: Old provision is not required, based on the Bonney Lake v Kanany decision.

C-28 AEO Maps

The maps attached as exhibits _____ are adopted to replace the existing Airport Environs Overlay maps.

C-29 AEO Maximum Building Size

14.16.210 Airport Environs Overlay (AEO).

- (1) Overview. *No change.*
- (2) Applicability. *No change.*
- (3) Compatibility Requirements.
 - (a) Prohibited Uses. *No change.*
 - (b) Additional Compatibility-Zone-Specific Restrictions. To protect the safety of both pilots and people on the ground in the event of an airplane crash, uses within the Airport Compatibility Zones are subject to the restrictions shown in the following table in addition to the restrictions imposed by the applicable zoning districts. Required open space must be maintained as vegetation not more than four feet in height, mowed lawn, or pavement.

ACZ	Additional Use Restrictions	Max Building Size	Required Open Space
1	No new structures or uses allowed (except aviation-related Port uses).	n/a	100%, except airport structures
2	No multi-family dwellings, accessory dwelling units, temporary manufactured homes, day care, co-housing, churches, or bed and breakfasts allowed.	13,000 sq ft and max one building per acre, except aircraft hangars.	30%
3S	n/a	13,000 sq ft and max one building per acre, except aircraft hangars.	15%
3L	No accessory dwelling units, temporary manufactured homes, co-housing, or bed and breakfasts allowed.	13,000 sq ft and max one building per acre, except aircraft hangars.	15%

ACZ	Additional Use Restrictions	Max Building Size	Required Open Space
4S	n/a	100,000 sq ft	10%
4L	n/a	100,000 sq ft	10%
5	n/a	30,000 sq ft	30%
6	Public and institutional uses (including churches) may not exceed a density of 100 people/acre.	n/a	10%

(c) Other Compatibility Requirements. *No change.*

(d) Height. *No change.*

(4) Port of Skagit Review. *No change.*

(5) Required Avigation Easement and Title Notice. *No change.*

C-30 Title Notice Requirements [not included]

This item is addressed through items C-12 and C-13.

C-31 and C-32 Storage of Junk, Recreational Vehicles

14.04.020 Definitions

The following definitions are amended:

Junk: means any solid, non-organic, non-putrescible solid waste including discarded or salvaged materials, scrap metals or other scrap material; used or scrap building, plumbing, electrical, and heating materials; discarded household appliances, furnishings, and fixtures; or dismantled or demolished machinery including unlicensed and/or inoperable vehicles.

Park model trailer: a type of recreational vehicle that is primarily designed to provide temporary living quarters for recreational, camping, or seasonal use that is built on a single chassis mounted on wheels, has a gross trailer area not exceeding 400 square feet (13.75 square meters) in set-up mode and is certified by the manufacturer as complying with ANSI A119.5.

Recreational vehicle: means a [park model trailer or a](#) vehicle ~~which that~~ is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

14.16.850 General provisions.

- (1) Any provision of this Title may be suspended in an emergency situation by the Administrative Official, subject to approval by the Board of County Commissioners.

(2) There shall be no more than 1 primary dwelling unit and 1 accessory dwelling unit per lot of record, unless otherwise permitted in the zoning district. [Recreational vehicles do not qualify as dwelling units.](#)

~~(a) — Recreational vehicles, including park model trailers, will not be considered as dwelling units, shall only be occupied on a temporary basis and shall be limited to 1 occupied vehicle per lot of record.~~

(3) *No change.*

(4) Development of Lots of Record.

(a) – (b) *No change.*

(c) The County shall only consider issuing development permits on those substandard lots of record meeting any of the exemptions in this Subsection.

(i) – (vii) *No change.*

(viii) The lot of record was legally created prior to March 1, 1965, or if created after March 1, 1965, was exempt from subdivision requirements at the time it was created, and meets 1 of the following requirements:

(A) *No change.*

(B) The lot of record is 5 acres or larger and is located in ~~a~~ [the Rural Reserve or Bayview Ridge Urban Reserve](#) zoning district; or

(C) – (E) *No change.*

(d) In the following zones, if the proposed use for the substandard lot of record is 1 of the following nonresidential uses and otherwise meets all requirements for the use in the zone, it may be allowed regardless of the determination pursuant to SCC 14.06.045(1)(b):

(i) – (vii) *No change.*

~~(viii) Bayview Ridge Urban Reserve.~~

~~(A) — Permitted uses: agriculture.~~

~~(B) — Administrative special uses: minor utility developments; parks, specialized recreational facilities; trails and primary and secondary trailheads.~~

~~(C) — Hearing Examiner special uses: expansion of existing major public uses up to 3,000 square feet; impoundments greater than 1 acre feet in volume; parks, community.~~

(e) *No change.*

(f) Reasonable Use.

(i) Variances from the requirements of this Section shall not be considered. However, if a substandard lot of record in the Rural Reserve, Rural Intermediate, Rural Village Residential, Urban Reserve Residential, ~~or Bayview Ridge Residential or Bayview Ridge Urban Reserve~~ zones does not meet any of the exceptions in Subsection (4)(c) of this Section, the lot owner may request that the County further evaluate the lot for a reasonable use exception pursuant to this

Commented [A52]: This zone no longer exists.

Commented [A53]: This zone no longer exists.

Commented [A54]: This zone no longer exists.

Subsection. Issuance of a reasonable use exception shall allow the lot owner to apply for residential development permits on the lot. Reasonable use exceptions shall only be issued if the lot owner can demonstrate the following:

(A) – (C) *No change.*
No change.

(ii) – (iii) *No change.*

(5) – (9) *No change.*

New section 14.15.945 Prohibited Uses

- (1) Generally.
 - (a) In addition to any use that is prohibited by SCC 14.16.020(3) or other provisions of Skagit County Code, this section describes additional uses that are expressly prohibited in all zones.
 - (b) Consistent with SCC 14.44.320, a violation of this section is a class 1 civil infraction and is subject to the other penalties in SCC Chapter 14.44.
- (2) Storage of junk. No person may use more than 500 square feet of a lot or parcel of land for the depositing, sorting, refining, baling, dismantling, or storage of junk except when conducted entirely within an enclosed structure or with a special use permit for that purpose.
- (3) Recreational vehicles.
 - (a) No person may use a recreational vehicle as a dwelling unit.
 - (b) No person may occupy a recreational vehicle for more than 180 days in any 12-month period.
 - (c) No person may maintain more than one occupied recreational vehicle on any lot without a special use permit for that purpose.
 - (d) No person may maintain more than two recreational vehicles on any lot without a special use permit for that purpose.

C-33 Zoning Use Matrix

~~14.16.700 Zoning use matrix.~~

~~A matrix is available at Planning and Development Services showing the various uses allowed in each zone. This matrix is intended as an aid to provide a general understanding about the uses, including special uses, which may be allowed in specific zones. The matrix does not include detailed requirements; those are instead reflected in the text of various sections of this Chapter.~~

C-34 Rural Business

14.16.150 Rural Business (RB).

- (1) *No change.*
- (2) *No change.*

- (3) *No change.*
- (4) Hearing Examiner Special Uses.
 - (a) – (c) *No change.*
 - (d) With an approved Hearing Examiner Special Use Permit, a use designated Rural Business which was established prior to July 1, 1990, may be expanded beyond the 1,500 square foot limit established in Subsection (2)(c) of this Section. ~~provided, that~~ For agricultural support services, the expansion is not limited. For all other uses, the expansion ~~does~~ may not exceed 50% of the gross floor area dedicated to the Rural Business use as of July 1, 1990, up to a maximum of 5,000 square feet; and ~~further provided, that~~ Subsections (4)(d)(i) through (vi) of this Section ~~are~~ must be met. The applicant shall have the burden of proof to demonstrate that the use was established, and to what extent, prior to July 1, 1990. An expansion of 50% is not guaranteed, but instead is a maximum allowance; provided, that in no instance shall an expansion greater than 5,000 square feet of gross floor area be allowed. Compliance with the criteria below may dictate a smaller maximum expansion. Expansions greater than 1,500 square feet shall not be allowed if the following criteria cannot be met:
 - (i) – (vi) *No change.*
 - (e) *No change.*
- (5) *No change.*
- (6) *No change.*

NC-1 Maximum Lot Coverage in Rural Reserve

14.16.320 Rural Reserve (RRv).

- (1) Purpose. The purpose of the Rural Reserve district is to allow low-density development and to preserve the open space character of those areas not designated as resource lands or as urban growth areas. Lands in this zoning district are transitional areas between resource lands and non-resource lands for those uses that require moderate acreage and provide residential and limited employment and service opportunities for rural residents. They establish long-term open spaces and critical area protection using CaRDs as the preferred residential development pattern.
- (2) *No change.*
- (3) *No change.*
- (4) *No change.*
- (5) Dimensional Standards.
 - (a) – (f) *No change.*
 - (g) Maximum lot coverage: ~~35%~~
 - (i) for agricultural accessory and agricultural processing uses: 35%;
 - (ii) for all other uses: 5,000 sq ft or 20%, whichever is greater, but not to exceed 25,000 sq ft.

(6) *No change.*