

An Ordinance Adopting Amendments to SCC Title 14 Regarding Permit Procedures

Whereas ____;

Whereas ____;

Whereas ____;

Whereas ____;

Whereas ____;

Whereas the Planning Commission approved a recorded motion [recommending/not recommending] the proposal, as shown in Exhibit B;

Now Therefore Be It Ordained by the Board of County Commissioners:

Section 1. Chapters 14.02, 14.04, 14.06, __, __, and 14.18 of the Skagit County Code are hereby amended as shown in Exhibit A.

Section 2. An application for a development permit that is submitted but not yet approved on the effective date of this ordinance is subject to the new procedures described in this ordinance.

Section 3. A development permit issued on or before the effective date of this ordinance may only be appealed pursuant to the new procedures described in this ordinance.

Section 4. Pursuant to RCW 36.70B.230, a copy of this ordinance must be transmitted to the County Assessor.

i Suggested delayed effective date until the expected date that the Department transitions to its new electronic permitting software. For consistency with 2SSB 5290, the ordinance (notably SCC 14.06.170 and .180) should go into effect no later than January 1, 2025.

Section 5. This ordinance is effective October 1, 2024.

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EXHIBIT A

Code Amendments

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Chapter 14.02 General Provisions

14.02.010 ~~General provisions~~ Purpose

i This section was incorrectly named.

No change to the text of this section.

14.02.020 ~~Name~~

i Existing 14.02.020 that explains the name of this code title is identical to its number and title; the section is surplusage and is deleted.

This Title may be cited as either the Skagit County Unified Development Code (UDC) or SCC Title 14.

New section 14.02.020 Applicability

i This new section is text moved from existing 14.02.040 Applicability. An applicability section is typically the first or second section in a chapter.

This Title applies to all land within unincorporated Skagit County except as allowed by law.

14.02.030 ~~Rules of interpretation.~~

i This existing section is moved later in the chapter and partially rewritten and expanded.

~~(1) For the purposes of this Code, all words used in the Code shall have their normal and customary meanings, unless specifically defined otherwise in this Code.~~

~~(2) Words used in the present tense include the future.~~

~~(3) The plural includes the singular and vice versa.~~

~~(4) The words "will" and "shall" are mandatory.~~

~~(5) The word "should" indicates that which is recommended but not required.~~

~~(6) The word "may" indicates that discretion is allowed.~~

~~(7) The word "used" includes designed, intended, or arranged to be used.~~

~~(8) The masculine gender includes the feminine and vice versa.~~

~~(9) Distances shall be measured horizontally unless otherwise specified.~~

~~(10) The words "code," "ordinance," and "chapter" shall refer to the Skagit County Code (SCC).~~

For the purposes of this Chapter and unless specifically defined, words or phrases used shall be interpreted so as to give them the meaning they have in common usage and to give this Title its most reasonable application.

New section 14.02.030 Administration.

Except where specifically provided otherwise, the director of the Planning and Development Services Department is responsible for administration of this Title.

14.02.040 Applicability

i This section has been moved earlier in the title because applicability sections typically come first.

The provisions of this Title shall be applicable to all land within unincorporated Skagit County except as allowed by law.

New section 14.02.040 Rules of interpretation.

i The first nine subsections are based on existing 14.02.030.

- (1) All words in this Title have their normal and customary meanings, unless specifically defined otherwise in this Title.
- (2) Words used in the present tense include the future.
- (3) The plural includes the singular and vice-versa.
- (4) The words “will” and “shall” are mandatory.
- (5) The word “should” indicates that which is recommended but not required.
- (6) The word “may” indicates that discretion is allowed.
- (7) The word “used” includes designed, intended, or arranged to be used.
- (8) The masculine gender includes the feminine and vice-versa.
- (9) Distances must be measured horizontally unless otherwise specified.

i The last three subsections are best practices additions to the rules of interpretation.

- (10) Interpretations related to uses in each zone should be based on the “purpose” section of each zone.
- (11) Interpretations of this Title must be consistent with the Comprehensive Plan.
- (12) Where an activity or land use could fall under two definitions, the more specific definition applies.

~~14.02.050 Vesting of applications.~~

i The content of this existing section in Chapter 14.02 will instead be addressed in the revised chapter 14.06.

Repealed.

New section 14.02.050 Electronic Communication

Anytime a submittal or communication is required in writing by this code, the submittal or communication is authorized and required via the Department’s electronic permit system or via electronic mail unless the context specifically requires otherwise or the applicant is unable to use an electronic system and requires a reasonable accommodation.

14.02.060 Fees.

Fees required of ~~developers~~ applicants for the review of various permit applications related to this Title may be adopted by resolution of the Board.

14.02.070 Office of Hearing Examiner.

No change.

14.02.080 Planning Commission.

No change.

14.02.090 Records of survey.

No change.

Chapter 14.04 Definitions

14.04.010 Scope

No change.

14.04.020 Definitions

The following definitions are added, deleted, or amended:

i The following definition is based on SCC 14.06.040(4), which does not correctly state how “administrative decisions” are used throughout Title 14.

Administrative decision: a decision by the Director related to a particular code section that calls out an “administrative decision,” typically used in situations where no other discretionary review is needed or a preliminary decision related to a development permit application is desirable. See applicable type of review in SCC 14.06.150.

i “Administrative Official” is not plain language nor obvious to the public. This code proposal deprecates the term in favor of “Director.”

Administrative Official: ~~the Director of Planning and Development Services, provided the Director may authorize certain staff to act on behalf of the Director, for specific decisions under this Title, as long as the staff is acting under the supervision and direction of the Director. See Director.~~

Appellate Body: the person or board authorized to hear an appeal of a particular type of development permit per SCC 14.06.150.

i The term “Approving Authority” is deprecated in favor of “decisionmaker,” because the latter does not presuppose approval.

Approving Authority: ~~the person or body in whom the authority is placed to grant a permit. See decisionmaker.~~

Board or BOCC: the Board of County Commissioners of Skagit County.

Building permit: an official document or certification ~~which that~~ is issued by the Building Official per SCC 15.04 and which that authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure. Building permit also includes a mobile home permit.

i The following definition requires changes to be consistent with both existing code, the proposed code update, and RCW 36.70B.

~~Closed-record appeal: an appeal to the Board of County Commissioners based on the existing record. an~~
administrative appeal on the record to an appellate body following an open record hearing on a development permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

Decisionmaker: the person or body in whom the authority is placed to grant or deny a permit.

- i** This chapter amends the definition of “development permit” to make very clear that it includes building permits. “Project permit” is the term used in RCW 36.70B, and this new definition makes clear that “development permit” is a superset of “project permit.”
- i** While 2SSB 5290 deleted the words “building permits” from the pre-existing statutory definition of “project permit,” the Legislature also rejected a proposal in HB 1519 to specifically exclude building permits from the definition. In our view, integrating building permits with other project permits is the best way to integrate building permits into the County’s permit process.

~~Development permit, or development permit application: any land use discretionary, or environmental permit or license required from a local government for a project action, including, but not limited to, construction or exterior alteration of structures, dredging, drilling, dumping, filling, earth movement, clearing or removal of vegetation, Class IV general forest practices, Class III forest practices with Conversion Option Harvest Plans as defined in Chapter 222-16 WAC, or other site disturbance which either requires a permit, approval or authorization from the County or is proposed by a public agency, but excluding the adoption of amendment of a Comprehensive Plan, subarea plan, community plan, functional plan, development regulation or any amendments thereto. a “project permit” as defined by RCW 36.70B.020, or any other permit or authorization required by the Department for construction or exterior alteration of structures (including those permits issued pursuant to regulations in SCC Title 15), dredging, drilling, dumping, filling, earth movement, clearing or removal of vegetation, Class IV general forest practices, Class III forest practices with Conversion Option Harvest Plans as defined in Chapter 222-16 WAC, or other site disturbance; but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations.~~

Development permit application: an application for a development permit.

Director: The director of the Planning and Development Services Department, or the Director’s designee.

- i** The definitions below relating to lot certification are proposed for adjustment to ensure clarity and provide appropriate cross-references to new section numbers. “Lot of record, legal” is changed to “Legal lot of record” so that the term is highlighted by Code Publishing’s pop-up definition service on the code website.

Lot of record: any lot platted or legally created under a Skagit County subdivision ordinance on or after March 1, 1965; any tract of land divided by metes and bounds or fractional section description or platted and recorded with the auditor prior to March 1, 1965; or any tract of land defined by metes and bounds or fractional section description and conveyed by notarized deed prior to March 1, 1965. See also “legal lot of record.”

~~Lot of record certification: an administrative review process to determine if a determination per SCC 14.06.140 whether a lot was legally created and is eligible for conveyance and/or whether the lot is eligible to be considered for both conveyance and development permits.~~

~~Legal lot of record-Lot of record, legal: a definition used prior to the adopting of the June 20, 2000, Unified Development Code referring to a lot of record meeting the aggregation requirements of SCC 14.04.190(5) (as formerly codified). See also “lot of record.”~~

- i** The following definition is based on RCW 36.70B and does not exist in current code.

“Open-record hearing” means a hearing, conducted by the hearing body or officer authorized by SCC 14.06.150 to conduct such hearings, that creates the record through testimony and submission of evidence and information. An open-record hearing held prior to the decision on a project permit is an “open-record pre-decision hearing.” An open record hearing held on an appeal is an “open-record appeal hearing,” if no open-record pre-decision hearing has been held on the development permit.

Party of Record: any person who has testified at a hearing or has submitted a written statement related to a development ~~action~~ permit application and who provides the County with a complete address, or a person who has formally requested to receive information via a written statement with a complete mailing address, within the official comment period.

Shoreline permit: a shoreline substantial development, variance, conditional use permit, or revision authorized under the County's Shoreline Master Program or RCW Chapter 90.58.

New section 14.04.030 Symbols

i This section is new material. The symbols are standard and useful to interpret new tables in SCC 14.06.

- (1) "Less than" is indicated by the < symbol.
- (2) "Less than or equal to" is indicated by the ≤ symbol.
- (3) "Greater than" is indicated by the > symbol.
- (4) "Greater than or equal to" is indicated by the ≥ symbol.

Chapter 14.06 Permit Procedures

Chapter 14.06 is repealed and replaced with the following:

- i** This is a complete rewrite of the existing code chapter. Changes are not tracked in strikethrough and underline, but are instead identified and explained in these blue boxes.
- i** The sections in chapter are grouped into several logical segments. Typically such groupings within a chapter would be called “articles,” but here they are called “parts” for consistency with the County’s adopted update of its Shoreline Master Program which titled internal chapter divisions as “parts.”

Part I. General Provisions

14.06.110 Purpose

- i** This section is a consolidation of existing 14.06.010 Intent and 14.06.020 Purpose and the other sections identified below.

- (1) This Chapter establishes standard procedures for review of development permit applications and appeals, intended to promote timely and informed public participation, eliminate redundancy in the process, minimize delay and expense, and result in approvals that further the goals and policies of the Comprehensive Plan. These procedures are intended to be consistent with RCW Chapter 36.70B and integrate the land use permit process with the environmental review process.

- i** The next section is adapted from existing SCC 14.06.030(1).

! These sections could move elsewhere, such as a general application review section.

- (2) Fundamental land use planning choices made in adopted Comprehensive Plans and development regulations serve as the foundation for application review. Applications must be reviewed for consistency, conformity and compliance with applicable adopted plans and development regulations. Application review may not be used for comprehensive planning purposes.

- i** The next section is adapted from existing SCC 14.06.030(2).

- (3) During review of an application, the County may not re-examine alternatives to or hear appeals of fundamental land use planning choices made in the Comprehensive Plan or adopted development regulations, except for issues of plan or code interpretation. If deficiencies are identified in the Comprehensive Plan or in development regulations during review of an application, those deficiencies should be considered for docketing per SCC Chapter 14.08.



We could add additional policy language to this section about facilitating timely application review and commitment to timelines.

14.06.120 Applicability



This is a new section to clearly articulate what kinds of permits this chapter applies to.



Are there other types of permits that we need to specifically exclude? Perhaps Public Works permits that don't fall within the definition of development permit?

- (1) This Chapter applies to all development permits issued per SCC Title 14, applications for such permits, and appeals of such applications and permits.
- (2) Shoreline permits and shoreline letters of exemption are issued pursuant to this chapter as supplemented by SCC Chapter 14.26, Shoreline Master Program.

14.06.130 Information and Interpretation



This is based on existing SCC 14.06.040. Subsection (1) establishing the administrator of the title, and subsection (5) regarding lot certification, have been moved elsewhere.




The following is adapted from existing SCC 14.06.040(2):

- (1) Counter Information. From time to time, department staff may respond to inquiries regarding the applicability and interpretation of various code provisions prior to, or outside of the context of a specific development permit or application. Unless a Director Interpretation is requested, these general counter requests for information are provided as a public convenience only, are not binding on the applicant or the Department, and are not subject to appeal.



The following is adapted from existing SCC 14.06.040(3), retitling "Director" from "Administrative Official." Because process provisions (timing and appeals) are covered elsewhere, this revision deletes the last line of paragraph (c) setting a time limit for decision, and paragraph (d) regarding appeals, including the clause limiting standing for appeals.





- (2) Director Interpretation.
 - (a) Applicability.
 - (i) A Director Interpretation may be requested as to:
 - (A) the meaning, application, or intent of any of the provisions of SCC Title 14;
 - (B) a question regarding a map boundary;
 - (C) an alleged scrivener's mapping error that does not involve reconsideration or rebalancing of designation criteria.
 - (ii) Procedural provisions and statements of policy are not subject to Director Interpretation.
 - (b) Application. An application for a Director Interpretation must be in writing on forms provided by the department and must concisely identify the issue and desired interpretation.
 - (c) Decision Criteria. The Director must research the original intent of the language or provision and consider relevant provisions of the Comprehensive Plan or other applicable policy documents.


 Note the addition of best practices requirements in the subsection below.


(d) Decision.

- (i) The Director must issue a written decision on the application.
- (ii) The Director must maintain a public webpage with an archive of issued decisions.
- (iii) If the issue concerns a material lack of clarity or inconsistency in SCC Title 14, the Director must propose amendment of the relevant code sections in the next annual amendment cycle pursuant to SCC Chapter 14.08.


14.06.140 Lot Certification

-  This section is based on a rewrite of existing 14.06.040(5) and existing 14.06.045. Paragraph (5) of .040 contained a lot of duplicate text, and a lot of text about appeals and notices that is covered elsewhere.
-  Existing subsection .045(6) is deleted as unnecessary and surplusage.
-  Existing subsection .045(8) describing the process for review of a lot certification application, is covered in the types of review table in proposed 14.06.150 and is not repeated here.
-  Recorded lot certification documents cite to SCC 14.04, SCC 14.16.850, and SCC 14.18.000(9), but not SCC 14.06.040 or .045, so it's not a problem to change the code location.

 It is strongly recommended that the substantive provisions of lot certification found in 14.16.850 be completely rewritten and relocated in the near future to further streamline the application process.

 The next subsection is based on existing subsection (1).

(1) Purpose. Lot certification is intended to determine whether a lot is legally created and therefore eligible for conveyance and whether or not the lot is eligible for development.

 The next subsection is based on existing subsection (2).

(2) Applicability.

- (a) Lot certification is a required component of an application for:
 - (i) all types of development permits;

 The Health Code in SCC 12.05 doesn't require lot certification despite the next line (which is existing code).

- (ii) new on-site sewage systems pursuant to SCC 12.05.090; and
 - (iii) building permits for new residential, commercial, industrial or institutional structures or structures accessory thereto.
- (b) Lot certification is also required to determine whether a lot may be legally conveyed.
 - (c) Lot certification may be applied for independent of any other permit.

i The following paragraph is based on existing .045(5).

(d) Exception. An application for any of the permit types in (a) for a lot of with the same legal description as an approved lot certification may rely on the existing lot certification and does not require an additional lot certification.

(3) Application.

(a) An application for lot certification must include:

i The next paragraph is based on existing paragraph .045(3)

(b) Evidence that the lot in question meets the definition of a lot of record. A separate assessor's parcel number is by itself not sufficient evidence that the lot meets the definition of a lot of record.

i The next paragraph is based on existing paragraph .045(7).

(c) A lot owner may apply for lot certifications for a group of undeveloped lots contained within a subdivision approved on or after March 1, 1965, as a single lot certification application. In addition, when future subdivisions are approved pursuant to Chapter 14.18 SCC, the plat map must include a note regarding lot certification and lot certifications must be issued and recorded for all lots upon recording of the plat.

(4) Review of Application. Upon receipt of a complete application for lot certification:

i The next paragraph is based on existing .045(1)(a).

(a) Conveyance. The Director must determine whether the lot is eligible for conveyance, either because the lot meets the definition of "lot of record" in SCC 14.04.020, or because the lot is owned by an innocent purchaser who meets the requirements described in SCC 14.18.000(9) and RCW 58.17.210 for the specified lot.

i The next paragraph is based on existing .045(1)(b) and the latter half of 045(1)(a).

(b) Development. The Director must determine whether the lot is eligible for development permits as follows:

(i) A lot that is restricted from development by prior County decision or action (e.g., plat notes, open space designation) is not eligible.

(ii) A lot that does not meet the definition of "lot of record" in SCC 14.04.020 is not eligible.

(iii) A lot of record that meets the minimum lot size requirements of its zone is eligible.

(iv) A lot of record that does not meet the minimum lot size requirements of its zone is a "substandard lot of record" and is only eligible if it qualifies for one or more exemptions identified in SCC 14.16.850(4)(c).

i The next subsection is based on existing subsection .045(4) and (5). Note the revision explicitly assigns the responsibility to record the lot certification to the Department.

(5) Approval. If the Director approves a lot certification, either for conveyance or both conveyance and development, the Director must record the issued lot certification with the County Auditor with a statement of the eligibility and the basis for the determination.

- (a) An approved and recorded lot certification constitutes the Department’s final determination regarding lot of record status for the specified legal description. A future application for property with the same legal description does not require a new lot certification.

i The next subsection is based on existing subsection .045(4).

- (6) Denial. If the Director denies a lot certification, the Director must record the determination that the lot does not meet the lot of record requirements with the County Auditor for the purpose of innocent purchaser notification described in SCC 14.18.000(9).

i The next subsection is based on existing subsection .045(5).

(7) Old Lot Certifications.

- (a) A lot certification issued by the Department for a lot satisfying the provisions of former SCC 14.04.190(5) in effect at the time of certification is entitled to the same finality as a lot certification issued pursuant to this section, after recording by the owner.
- (b) All other previously issued lot certifications are sufficient evidence for eligibility for conveyance, but require further review to determine eligibility for development.

14.06.150 Types of Review

i This is a new section that captures and reorganizes the content in existing SCC 14.06.050 regarding application levels in a tabular format where types of review can be compared against each other. See the staff report for an identification of differences between the current “application levels” and the proposed “types of review.”

i Note that at least 15 days comment period is required for open-record pre-decision hearings by RCW 36.70B.110.

i Per RCW 36.70B.050, review of an application is allowed only one open record hearing and one closed record appeal hearing.

i Per Section 6 of the Western Washington Phase II NPDES Permit applicable to Skagit County, exceptions/variances to the Minimum Requirements for stormwater management require legal public notice of the application and the County’s decision on the application, but not a comment period. “Adjustments” require no such notice.

- (1) Decisions on applications are governed by several types of review processes, described and distinguished in this section. The types of review are generally organized in ascending order of significance, amount of public process, and level of discretion exercised by the decisionmaker.
- (2) Table 14.06.150-1 identifies the type of review applicable to each type of application or decision, and describes the process for each type of review.
 - (a) The types of applications and decisions that are subject to each type of review are listed in the first row beneath the header for each type.
 - (b) The processes required for each type of review is further described by the remainder of the column beneath the heading for each type.
- (3) The Director must determine the proper review type for all permit applications consistent with Table 14.06.150-1. If there is a question as to the appropriate type of process, the Director must resolve it in favor of the higher-numbered type.



Staff should identify any entries missing from the “applications subject to this type of review” row in the table below.

Table 14.06.150-1 Types of Review

	Type 1 Director decision without notice	Type 2 Director decision with notice	Type 3 Hearing Examiner decision	Type 4 Board of County Commissioner decision
Applications Subject to this Type of Review	<ul style="list-style-type: none"> • Accessory dwelling • Administrative decision • Administrative order issued per SCC Chapter 14.44 • Application expiration • Boundary line adjustment • Building permit (SCC 15.04) • Final approval or extension of land division • Forest practice waivers for SFR • Land disturbance permit (SCC 14.22) • Minor revision to permit • Shoreline exemption 	<ul style="list-style-type: none"> • Director Interpretation (SCC 14.06.130) • Administrative Special Use Permit • Administrative Variance (SCC 14.10) • Critical Areas Variance of > 25% and ≤ 50% of standard buffer width • Lot Certification Reasonable Use Exception • SEPA threshold determination • Stormwater adjustment or exception (SCC 14.32.090) • URDP “1-acre plat” (SCC 14.16.910(3)) 	<ul style="list-style-type: none"> • Critical Areas Variance of > 50% of standard buffer width • Forest practice waivers for other than SFR development • Local essential public facility (SCC 14.16.600) • Hearing Examiner Special Use Permit • Hearing Examiner URDP (SCC 14.16.910(2)) • Hearing Examiner Variance (SCC 14.10) 	<ul style="list-style-type: none"> • BOCC Variance (SCC 14.10) • Development agreement (SCC 14.14) • Regional essential public facility (SCC 14.16.600) • Site-specific rezone authorized by the comprehensive plan
Pre-Application Conference	No	Yes, but can be waived	Yes, but can be waived	Yes, but can be waived
Pre-Application Neighborhood Meeting	No	No ¹	No ¹	No
Notice of Application	No	Yes	Yes	Yes
Comment Period	None	15 days ²	15 days ²	15 days
Recommendation By	None	None	Director	Hearing Examiner
Pre-Decision Open-Record Public Hearing	No	No	Yes, held by Hearing Examiner	Yes, held by Hearing Examiner
Decisionmaker	Director	Director	Hearing Examiner	Board of County Commissioners
Notice of Decision	No	Yes	Yes	Yes
Decision Deadline³	65 days	100 days	170 days	170 days
Local Appeal Available To	Hearing Examiner	Hearing Examiner	BOCC	None
Appeal Hearing	Open-record	Open-record	Closed-record	None

Footnotes:

! Staff should identify any types of permits that would particularly benefit from a pre-application neighborhood meeting.

1. A pre-application neighborhood meeting is required for _____, or when determined necessary by the Director.
2. Per WAC 173-27-110, shoreline permits have a 30-day comment period. For land divisions, see subsection (5) below.
3. Deadlines are measured from the date of the Department’s determination the application is complete. See SCC 14.06.170. Timing of review for land divisions is established in RCW 58.17.140.

i RCW 58.17.020(6) allows for a short subdivision up to 9 lots in an urban growth area. That’s not addressed in existing code, and is difficult to achieve in a UGA, but is addressed here for completeness.

- (4) Table 14.06.150-2 identifies the types of review for land divisions (short subdivisions, long subdivisions, binding site plans, or unit lot subdivisions) based on the location and number of units in a proposed land division.




Table 14.06.150-2 Types of Review for Land Divisions


	number of lots, tracts, parcels, or units			
	1-4	5-9	10-49	50 or more
Inside a UGA	Type 1 (Short Plat)	Type 1 (Short Plat)	Type 3 (Long Plat)	Type 4 (Long Plat)
Outside a UGA	Type 1 (Short Plat)	Type 2 (Long Plat)	Type 3 (Long Plat)	Type 4 (Long Plat)

! Probably need to adjust/delete short and long plat parentheses because this table also applies to binding site plans and unit lot subdivisions. Need unit lot subdivision code per RCW 58.17.060(3).


- (5) Exceptions
 - (a) Per RCW 58.17.095, an application for a land division outside a UGA proposing between 5 and 9 lots (inclusive) is a Type 2 review with a 21-day comment period. The notice must comply with the requirements of RCW 58.17.095. However, if any person files a request for a public hearing on the application during the 21-day comment period, the review type is elevated to a Type 3 review.
 - (b) An application for alteration of a subdivision is processed as required by RCW 58.17.215 and is subject to a Type 4 review, except that a public hearing is not required unless a person who receives the notice requests one within 14 days.
 - (c) An application for vacation of a subdivision is processed as required by RCW 58.17.212 and is subject to a Type 4 review.
- (6) See SCC 14.06.160 for the process for consolidation of multiple applications for a single project. Consistent with the integration of environmental review required by SCC 14.06.160, if a project that would otherwise be characterized as Type 1 is not SEPA-exempt, it must be reviewed as a Type 2 (or higher) permit.

14.06.160 Consolidation of Review

-  The following is based on existing SCC 14.06.060. Required by RCW 36.70B.120.
-  In the consolidated approach, this section would require higher-level review first, rather than the reverse as required by existing code.
-  Clarified that the applicant must choose to opt out of consolidation at the time of application.

 Deleted statement in existing code about Road Standards Manual.

- (1) Purpose. The purpose of this section is to:
 - (a) Avoid duplication of review processes;
 - (b) Integrate the development permit and environmental review processes;
 - (c) Facilitate public comment on a project, where public comment is appropriate; and
 - (d) Comply with RCW 36.70B.060 and 120.
- (2) Optional consolidation. Applications for a project that requires two or more related development permits must be reviewed in a single consolidated process unless the applicant requests otherwise in writing at the time of application. A variance associated with a preliminary land division must be processed in a consolidated review with the proposed land division.
 - (a) In the consolidated approach, the applications must be processed under the highest-numbered type of review represented among the required permits.
 - (b) If the applicant opts for individual processing, review of a development permit that depends on another development permit with a higher-numbered review type must be suspended until review of the latter permit is complete.

 The following is based on existing SCC 14.06.070.

- (3) Integration of State Environmental Policy Act (“SEPA”) review.
 - (a) SEPA review of a development permit application must be combined with review of the underlying application unless the project is categorically exempt from SEPA. If studies that adequately analyzed a project’s specific probable adverse impacts have already been performed under another SEPA review process, then additional or redundant studies may not be required under SEPA.
 - (b) A development permit application subject to review under the State Environmental Policy Act (SEPA) must be reviewed in accordance with the policies and procedures contained in SCC Chapter 16.12, State Environmental Policy Act, and WAC Chapter 197-11.
 - (c) SEPA review may not be performed on a project without a development permit application.
 - (d) A SEPA threshold determination or a scoping notice may be issued with a Notice of Development Application. A final threshold determination of nonsignificance may not be issued until after the expiration of the public comment period on the notice of application unless the requirements of the optional DNS process (WAC 197-11-355 and SCC 16.12.070) are followed. A final determination of significance and a SEPA scoping notice may be issued with the Notice of Development Application and prior to the expiration of the public comment period on the Notice of Development Application. Per RCW 36.70B.110(6)(b), for Type 3 and 4 reviews, the threshold determination must be issued at least 15 days prior to the open-record pre-decision hearing.

- (e) Any appeal of a determination of significance as described in SCC 16.12.210 may proceed in advance of any hearings or appeals of the underlying development permit. Any appeals of a determination of nonsignificance must be combined with and processed at the same time as the hearings or appeals of the underlying development permit.

14.06.170 Timing of Review

i This section incorporates the relevant provisions of SCC 14.06.210 Timing of Decisions, with updates to comply with 2SSB 5290 (2023), now codified in RCW 36.70.080.

- (1) The Decision Deadlines in SCC 14.06.150 apply to the types of review identified in the table, measured from the date the Department determines an application is complete per SCC 14.06.310 to the date a final decision is issued on the development permit application.

i The deadlines shown in the table are the default deadlines in the statute. Per RCW 36.70B.080: A jurisdiction may modify the deadlines to add permit types not identified, change the permit names or types in each category, address how consolidated review time periods may be different than permits submitted individually, and provide for how projects of a certain size or type may be differentiated, including by differentiating between residential and nonresidential permits.


i The following text is nearly verbatim from revised RCW 36.70B.080(1)(g), which goes into effect January 1, 2025. Until that date, the statute in effect suggests 120 days for all types of review.


- (2) The number of days is calculated by counting every calendar day and excluding the following time periods:
 - (a) Any period between the day that the Department has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant;

! Inserted a 12-mo limit on suspension of an application as authorized by RCW 36.70B.080(1)(g).

- (b) Any period after an applicant informs the Department in writing that they would like to temporarily suspend review of the development permit application until the time that the applicant notifies the Department in writing that they would like to resume the application, up to 12 months;
- (c) Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired;
- (d) The time periods for the Department to process a permit start over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use, as required by the Department under RCW 36.70B.070.
- (e) If, at any time, an applicant informs the Department in writing that the applicant would like to temporarily suspend the review of the project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the Department has notified the applicant in writing that additional information is required to further process the application, an additional 30 days may be added to the time periods for the Department to issue a final decision. Any written notice from the Department to the applicant that additional information is required to further process the application must include a notice that nonresponsiveness for 60 consecutive days may result in 30 days being added to the time for review. For the purposes of this subsection, "nonresponsiveness" means that an applicant is not making demonstrable progress on providing additional requested information to the

local government, or that there is no ongoing communication from the applicant to the local government on the applicant's ability or willingness to provide the additional information.

 The fee refunds authorized and required by the proposed section below are not required by 2SSB 5290 if the County adopts at least three measures from the list in RCW 36.70B.160.

 If the County does not adopt three such measures, RCW 36.70B.080(1)(l) requires partial refund of permit fees if the timeline are not met, and allows the County to collect 80% of the permit fee initially and the remainder only if permitting timeline are met. Adjustments to the Department's fee schedule may be required.

(3) Consequence of Department failure to meet timelines. If the Department is unable to complete review and issue a final decision by the deadlines in SCC 14.06.150 for the type of review applicable to a particular development permit (as may be modified by the consolidation provisions of SCC 14.06.160), the Department is authorized and required to refund application fees to the applicant as follows:

- (a) Refund 10% if the period from the passage of the deadline to the time of issuance of the final decision did not exceed 20% of the original time period; or
- (b) Refund 20% if the period from the passage of the deadline to the time of issuance of the final decision exceeded 20% of the original time period.

14.06.180 Site Plan Review

(1) Purpose. The purpose of site plan review is to:

- (a) provide a holistic assessment of how a subject parcel may be developed consistent with the desire of the property owner or applicant and the requirements of Skagit County Code;
- (b) provide limited assurance that a subsequent application will not need to be reviewed again for the same criteria, therefore saving future application review time.

(2) Applicability.

- (a) Except as provided in paragraph (b) below, a development permit application must receive site plan review as an integral component of the Department's review process.
- (b) Interior Alterations Excluded.
 - (i) Per RCW 36.70B.140(3), a development permit application solely for interior alterations does not require any of the reviews identified above if the interior alterations do not result in the following:
 - (A) additional sleeping quarters or bedrooms;
 - (B) nonconformity with Federal Emergency Management Agency substantial improvement thresholds;
 - (C) increase the total square footage or valuation of the structure to thereby require upgraded fire access or fire suppression systems.
 - (ii) For purposes of this section, "interior alterations" include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.
- (c) An applicant for a development permit may request site plan review for the specific project contemplated in the development permit application or that project and additional future projects, or an applicant may submit an application for site plan review for future projects, independent of any current development permit application.

- (3) Application.
- (a) An application for site plan review must identify the projects for which review is to be performed with sufficient specificity for those projects to be reviewed consistent with the code.
 - (b) An application for site plan review must include:
 - (i) the parcel number(s) or a legal description of the subject property;
 - (ii) detailed identification of the proposed use(s) on the property;
 - (iii) a simplified map of the property including identification of the general location of those proposed uses, and any existing uses;
 - (iv) a completed Critical Areas Ordinance checklist;
 - (v) a conceptual stormwater site plan or a stormwater site plan per SCC Chapter 14.32 if a complete application for a development permit has been submitted.
- (4) Review. During site plan review, the Department will review the proposed project(s) for consistency with:
- (a) Lot certification (SCC 14.06.140);
 - (b) Setbacks applicable to the zone (SCC Chapter 14.16);
 - (c) Airport Environs Overlay (SCC 14.16.210);
 - (d) Ag-NRL siting criteria (SCC 14.16.400(6));
 - (e) Title notice requirements found throughout SCC Title 14;
 - (f) Critical areas and shoreline boundaries, setbacks, and buffers (SCC Chapter 14.24 and 14.26);
 - (g) Access, pursuant to the County road standards and SCC Chapter 11.16;
 - (h) Wildland-Urban Interface (SCC 15.04.020);
 - (i) Floodplain development (SCC Chapter 14.34);
 - (j) Septic drain fields or other sewer connection (SCC Chapter 12.05);
 - (k) Well setbacks, sanitary easement, rainwater catchment area;
 - (l) Pipeline hazards (SCC 14.16.835);
 - (m) Conceptual stormwater management planning, or complete stormwater review per SCC Chapter 14.32 if a complete application for a development permit has been submitted;
- (5) Decision on site plan review. After review of the submittal against the criteria in (4), the Department must create a simplified site plan approval map, including the identified proposed uses and such boundaries, notes, and conditions that are necessary to obviate the need for site plan review during review of future development permit applications.
- (6) Review of future applications. Following site plan review, the Department must review a future application for a subsequent development permit on the same property against the site plan review that was earlier performed, and may not require additional review for the criteria identified in (4) unless:
- (a) The project(s) proposed in the permit application are materially inconsistent with earlier site plan review;
 - (b) Skagit County Code Title 14 or 15 has changed in a material way since the earlier site plan review;
 - (c) Other conditions of the property, adjacent property, or zoning have changed in a material way known to the Department since the earlier site plan review;

- (d) The site plan review is 5 or more years old.
- (7) Nothing in this section prevents a decisionmaker from imposing necessary conditions on a permit that conflict with conditions identified in a previous site plan review.

14.06.190 Vesting

i Based on IMC 18.204.080.

- (1) A complete application for a building permit or land division vests to the substantive regulations in this Title in effect at the time a complete application is properly submitted, and must be reviewed for approval based on conformity with those regulations.
- (2) A complete application does not vest to:
 - (a) matters concerning public health, safety, and welfare;
 - (b) the procedural provisions of this Title;
 - (c) application fees not already assessed;
 - (d) impact fees;
 - (e) development regulations adopted in furtherance of the Clean Water Act;
 - (f) subsequently adopted or revised land use controls or other regulations that are mandated by State law.
- (3) Supplemental information required after an application is determined complete does not affect the validity of the vesting of such application.

Part II. Applications

14.06.210 Pre-application Requirements

- (1) Pre-application requirements. The following are required prior to application for a development permit:
 - (a) Pre-Application Conference, if required by SCC 14.06.150;
 - (b) Pre-Application Neighborhood Meeting, if required by SCC 14.06.150;
 - (c) Addressing per SCC Chapter 15.24.
- (2) Application for site plan review per SCC 14.06.180 at the earliest possible opportunity, prior to application for a development permit, is encouraged but not required.
- (3) Except as provided in this section, no additional steps or submittals may be required prior to application.

14.06.220 Pre-application Conference

i Based on existing SCC 14.06.080 which described both a required “pre-development” meeting and an optional “pre-application” meeting.

- (1) Purpose. The pre-application conference is intended to:
 - (a) provide the County and other agency staff with information about the proposed project;
 - (b) enable staff to advise the applicant of applicable approvals and requirements;
 - (c) acquaint the applicant with the applicable requirements of the SCC and other laws; and
 - (d) identify issues and concerns in advance of a formal application.

- (2) When required.
 - (a) Generally. A pre-application conference is required when shown in SCC 14.06.150 Types of Review.
 - (b) Exception. The Director may waive the pre-application conference if the proposal has few development-related issues, involves subsequent phases of an approved development, or is substantially similar to a prior proposal affecting substantially the same property.
- (3) Conference.
 - (a) To schedule a pre-application conference, the applicant must submit a request on forms provided by the Department and pay any applicable fees.
 - (b) The Department may invite all affected jurisdictions, agencies, and special purpose districts to the preapplication conference.
 - (c) If a project is proposed to be located within a municipal urban growth area, the Department must send notice of the preapplication conference to the relevant municipality to request comments, or participation at the meeting, or both.
 - (d) The Department must provide the applicant with a single consolidated letter describing the Department's comments within 10 days of the conference.
 - (e) The advice the Department provides at the pre-application conference is not binding upon the Department and does not prevent the Department from enforcing all applicable regulations.

14.06.230 Pre-application Neighborhood Meeting


i This is a new section, originally intended to implement the Planning Commission's 2016 recommendation in their SMP recorded motion to require such a meeting for shoreline enhancement projects. Not currently specified as required for any permit types.


- (1) Purpose. The purpose of the neighborhood meeting is to:
 - (a) Inform citizens about the potential project at an early stage; and
 - (b) Foster communication between the applicant and the public regarding potential issues and opportunities for solutions related to the project.
- (2) When required.
 - (a) A pre-application neighborhood meeting is required when shown in SCC 14.06.150 Types of Review.
 - (b) The applicant must hold a neighborhood meeting before submitting an application and after any required pre-application conference.
 - (c) The Director may require the applicant to hold another neighborhood meeting if the applicant's plans change significantly from those described at the neighborhood meeting.
- (3) Meeting.
 - (a) The meeting must be held in a nearby public meeting place, such as a public library meeting room, fire station, city or town hall, or County office building.
 - (b) The meeting must be facilitated by a third-party facilitator approved by the Director.
 - (c) The meeting must be held Tuesday, Wednesday, or Thursday at 6 or 7 p.m. and may not overlap with any other County meeting or County holidays.
- (4) Notices.

- (a) The Director may provide standard notice formats and guidelines for conducting the meeting.
- (b) The notice must include:
 - (i) a brief description of the project;
 - (ii) date, time, and location of the neighborhood meeting;
 - (iii) name and phone number of the applicant or their representative.
- (c) The notice must be mailed at least 10 days prior to the meeting to all of the following:
 - (i) The Department;
 - (ii) The list of property owners that must receive the notice of application.
- (d) The notice must be published in the local newspaper at least 10 days prior to the meeting.
- (e) The applicant must also post the notice on the project site at least 10 days prior to the meeting.
- (5) The applicant is responsible for all fees and costs associated with the pre-application neighborhood meeting.

14.06.240 Application Contents

- (1) Applicability. This section applies to any application submitted for review under this Chapter.
- (2) Contents.

 This section really needs to be built out with great specificity because 2SSB 5290 makes determinations of completeness dependent on explicit knowledge of the procedural requirements for an application. Items that are not needed at the time of application should be deleted.

 This subsection is based on existing SCC 14.06.090 except subsection (4). Deleted requirements for acknowledgement, i.e., certification by a notary public. Some items were moved to SCC 14.06.180.

- (a) The applicant must apply for all permits and approvals required by Skagit County Code. An application for a development permit must be declared complete when the County has received all of the following:
 - (i) a fully completed and signed application;
 - (ii) all applicable review fees for each permit or approval required;
 - (iii) lot certification if required per SCC 14.06.140;
 - (iv) the date of the pre-application conference for the application, if required;
 - (v) a statement by the applicant that all of the property that is the subject of the application is either in the exclusive ownership of the applicant or that the applicant has submitted the application with the consent of all owners of the property;
 - (vi) a completed and signed environmental checklist for projects subject to review under the State Environmental Policy Act;
 - (vii) a concurrency letter pursuant to Chapter 14.28 SCC;
 - (viii) a completed site plan review application per SCC 14.06.180, or identification of an earlier completed site plan review that is consistent with the proposed uses in the application;
 - (ix) the information specified for the required development permits and approvals in relevant chapters of the Skagit County Code;
 - (x) all associated applications that are required for the proposed project;

- (xi) any additional materials required by the Director based on project-specific and site-specific issues, as identified in writing as part of the pre-application process.
- (b) The Director may waive any requirement in paragraph (a) where the requirement is not relevant to the proposed project or is met by existing submitted or adopted documents.

14.06.250 Application Revision

i This subsection is based on IMC 18.204.100.

- (a) An applicant may make minor revisions to the application after the determination of completeness. Any revision other than a minor revision requires a new application.
- (b) A “minor revision” to an application includes changes to:

! Staff to review this list. Could make consistent with existing unadopted policy on revisions (need policy).

- (i) Floor plans that do not substantially alter the site plan or building elevations.
- (ii) Parking and circulation configurations that do not change the basic parking areas or circulation concept, such as relocating parking areas from one area of the site to another or by adding or deleting circulation areas that could have potential impacts to adjacent or surrounding properties.
- (iii) Outside building configurations that do not create a greater bulk, scale, or change in natural vistas.
- (iv) Building placements that do not change the general location and layout of the site.
- (v) Grading alterations that do not change the basic concept, significantly increase slopes, or building elevations, or change course of drainage which could adversely affect adjacent or surrounding properties.
- (vi) Landscape areas that do not alter the general concept or remove any agreed-upon protected trees.

14.06.260 Application Withdrawal

- (1) Applicability. This section applies to any application submitted for review under this Chapter.
- (2) An applicant may withdraw an application at any time via notice in writing to the Department. Withdrawal of an application stops all review. Review of a withdrawn application may not be restarted.
- (3) Application fees may be refunded only as allowed by the fee schedule for the Department adopted by the Board of County Commissioners or by BOCC resolution.

Part III. Review Process

14.06.310 Review for Application Completeness

i This section is intended to comply with RCW 36.70B.070.

- (1) Applicability. This section applies to all applications for any development permit.
- (2) Criteria. An application is complete for purposes of this Section when it:
 - (a) fully complies with SCC 14.06.230 regarding required contents of applications, including payment of fees;

(b) is sufficient for continued processing even though additional information may be required, or project modifications may be undertaken subsequently.

(3) Determination of completeness.

(a) Within 28 days after receiving an application, the Department must provide a written determination to the applicant, stating either:

(i) That the application is complete; or

(ii) That the application is incomplete. The determination that the application is incomplete must include a description of what is necessary to make the application complete and a statement that the information must be submitted within 90 days to avoid expiration under SCC 14.06.310(4).

(b) To the extent known by the Department, the Department must identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.

(c) Within 14 days after receiving information in response to a determination that the application is not complete, the Department must re-evaluate the application for completeness and notify the applicant of its determination as to whether the application is now complete.

(d) If the Department does not provide a determination before the deadlines identified above, the application is deemed complete.

i The next subsection is based on the exact text of RCW 36.70B0.070. Existing 14.06.090(4) regarding stopping the project review clock is addressed in 14.06.170 Timing of Review.

(e) The determination of completeness does not preclude the Department from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.

(f) A determination of completeness is not required if the Director issues the permit prior to the deadline identified above.

(4) Requests for additional information or corrections.

i This subsection is based on RCW 36.70B.160(1)(j).

(a) If the Department twice requests additional information or corrections during application review, the Department must offer the applicant a meeting with Department staff to resolve outstanding issues. The meeting must be scheduled within 14 days of the second request for corrections.

(b) If the meeting cannot resolve the issues and the Department requests additional information or corrections a third time, the Department must approve or deny the application upon receiving the additional information or corrections.

(c) Nothing in this section affects the timelines for application expiration in subsection (5).

(5) Application expiration.

(a) Unless review is suspended under 14.06.170(2)(e) of this section, if the Department requests more information from the applicant about the application, the applicant has 90 days to respond with the requested information.

(b) If the applicant does not respond within the required period, the Director may expire the application for failure to timely submit requested information by providing the applicant with written notice of expiration.

- (c) If the Director expires an application, the applicant must submit a new application, including any applicable fees, to restart the review process.
- (d) The Director may grant an extension if, based on information submitted by the applicant with the request for the extension, the Director concludes that the applicant is making reasonable progress toward submitting the required information.

14.06.320 Notices Generally

i This section is based on portions of SCC 14.06.110-140 for each application level, SCC 14.06.150(2), and IMC 18.204.120.

- (1) Applicability. This section applies to any public notice required by SCC 14.06.150, including:
 - (a) Notice of Pre-Application Community Meeting;
 - (b) Notice of Application;
 - (c) Notice of Public Hearing;
 - (d) Notice of Decision;
 - (e) any revisions to or reissuances of any of these notices.

i The next subsection is based on Issaquah Municipal Code 18.204.120.

- (2) Distribution. The Department must distribute the notice by:
 - (a) Publication on the Department’s website;
 - (b) Publication in the County’s official newspaper;
 - (c) Electronic mail or first-class mail to:
 - (i) The applicant;
 - (ii) Any appellant;
 - (iii) Any party of record;
 - (iv) Any person who, prior to rendering the decision, has requested a copy of the Notice of Decision;
 - (v) Any agencies with jurisdiction over the application or any agencies that commented on the application;
 - (vi) Washington State Department of Transportation, if the project is located adjacent to the right-of-way of a state highway;
 - (vii) The adjacent city, if the project is located adjacent to a city boundary or within a municipal UGA;

i The next line is required by RCW 36.70B.130.

- (d) For a Notice of Decision, to the county assessor.

i The next line is based on existing SCC 14.06.150(1). Note that this proposed revision shifts responsibility to mail this notice from the applicant to the Department. The Department may charge the cost of mailing this notice, using a mailing service, to the applicant. This line also allows for the Department to use postcard notices similar to what Snohomish County currently uses.

- (e) For a Notice of Application, via U.S. mail in full or as a postcard summary with a weblink to the full notice, to owners of property and residents of parcels within 300 feet of the subject property and other property under substantially similar ownership. For marijuana facilities, notice must be provided within 1,000 feet. For mineral extraction activities, notice must be provided within 1,320 feet of all subject property lines.

i The next section is based on Issaquah Municipal Code 18.204.125.

! Staff to carefully review this section and fill in blanks.

- (3) Notice Boards. The Department must also ensure that public notices required by SCC 14.06.150 are displayed on notice boards consistent with this subsection.
 - (a) Within 28 days of initial application, the applicant is responsible for posting notice boards on the subject property and submitting a signed affidavit that states the date of installation and location of the notice board, and includes a photograph of the notice board that provides context of its location.
 - (b) Design. The notice board must be at least ___ by ___ in size and must be designed, constructed, and installed in accordance with specifications established by the Director, and include the application number(s), and a phone number and website address where more information can be obtained.
 - (c) Content. Each of the public notices identified in subsection (1) for the relevant application must be timely posted to the notice board(s).
 - (d) Location.
 - (i) One notice board must be erected on or near the subject property on each public or private road that abuts the property, or as otherwise directed by the Department for maximum visibility.
 - (ii) View of the notice board(s) must not be obstructed from the perspective of the abutting public right-of-way.
 - (iii) The top of the notice board must be more than 4 feet, but less than 8 feet, above grade.
 - (e) Removal. The notice board(s) may not be removed until the appeal periods for all land use permits relating to the proposed project have ended, and must be removed within two weeks following the end of any appeals.
 - (f) Violations. Removal of the notice board(s) or the public notices prior to the prescribed time frames may be cause for additional notice or an extended appeal period.
- (4) Errors. Inadvertent errors in compliance with the public notice rules contained in this Part do not invalidate the process if the notice was reasonably adequate.

14.06.330 Notice of Application

- (1) Applicability. This section applies when a Notice of Application is required by SCC 14.06.150.
- (2) Contents. The Notice of Application must include all of the following:
 - (a) The application number;

- (b) The name of the applicant;
- (c) The date of application, the date of the notice of completion for the application, and the date of the notice of application;
- (d) Identification of the location of the project, by address if available;
- (e) A description of the proposed application, a list of the development permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070;
- (f) Identification of other permits not included in the application, to the extent known by the County;
- (g) Identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
- (h) Identification and description of the type of review for the application;
- (i) A description of the public comment period and a statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;
- (j) The date, time, place, and type of public hearing, if applicable, and scheduled at the date of notice of the application;
- (k) A statement of the preliminary determination of consistency, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation and consistency;
- (l) If the County is using the optional DNS process (WAC 197-11-355), additional information as required by WAC 197-11-355(2);
- (m) Any other information determined necessary by the Department, such as the County's likely threshold determination, if known at the time of issuance of the notice of application.

(3) Timing. The Department must distribute the Notice of Application:

i The time periods in this subsection are consistent with the requirements of RCW 36.70B.110.

- (a) Within 14 days of determination that an application is complete;
- (b) At least 15 days prior to any open record hearing; and
- (c) At least the number of days prior to the close of a written comment period that the comment period is required to last.

14.06.340 Public Comment

- (1) Applicability. This applies when a comment period is required by SCC 14.06.150.
- (2) The Department must advertise and allow the submission of public comments for the time period required by SCC 14.06.150 for the type of review. Where the time period in SCC 14.06.150 conflict with other code sections or statutes, the longer time period controls.
- (3) The Department must accept comments both electronically and on paper.
 - (a) All comments must reference the application number.
 - (b) Paper comments should be submitted on standard letter-sized paper in black and white and must be received by the deadline.
 - (c) The Department may decline to consider comments that do not comply with these standards.

- (4) Within seven days after the end of the public comment period, the Department must transmit to the applicant a copy of public comments timely received in response to the notice of application, together with a statement that the applicant may submit a written response to these comments within seven days from the date the comments are transmitted.

14.06.350 Staff Report

i This section incorporates relevant portions of existing SCC 14.06.110-140.

- (1) Purpose. The purpose of preparing a staff report and making recommendations to the decisionmaker is to facilitate the review and decision-making process by providing the information and analysis in a concise and clear format.
- (2) Contents.
 - (a) The staff report should provide the facts and reasoning that are the basis for the Department's recommendation.
 - (b) The staff report should address all technical and design issues of the project.
 - (c) The staff report must include the comments and recommendations of County departments and other relevant government agencies, and public comments.
 - (d) The staff report must also state all the decisions or recommendations made as of the date of the report on all development permits included in the consolidated review process.
 - (e) The staff report must state any mitigation required or proposed under the development regulations or SEPA authority under RCW 43.21C.060. If a threshold determination, other than a determination of significance, has not been issued previously for the project, the report must include or append this determination.
 - (f) The staff report must include a recommendation (or a decision if the Department is the decisionmaker) based on the information provided by the applicant and the technical and design analysis of the development proposal provided by the pertinent County departments, and state and federal agencies, where applicable.
- (3) Timing.

i The next line is based on existing SCC 14.06.120(5).

- (a) The Department must file its recommendation with the Hearing Examiner at least seven days prior to the scheduled hearing.

i The next line is based on, and required by RCW 36.70B.110(6)(a).

- (b) Except for a SEPA threshold determination, the Department may not issue its recommendation or decision on a development permit application until the expiration of the public comment period on the notice of application.

14.06.360 Notice of Public Hearing

- (1) Applicability. This section applies when a pre-decision open-record public hearing is required by SCC 14.06.150.
- (2) Contents. The Notice of Public Hearing must contain all of the elements required for a Notice of Application.

- (3) Consolidation. The Notice of Public Hearing may be combined into the Notice of Application. If notice of a public hearing was not provided in the Notice of Application for a development permit application, the notice of public hearing must be provided separately.
- (4) Distribution. The Notice of Public Hearing must be distributed per SCC 14.06.320.

i The time periods in the following subsection are consistent with the requirements of RCW 36.70B.110.

- (5) Timing. The Department must distribute the Notice of Public Hearing, and any SEPA threshold determination, at least 15 days prior to the pre-decision open-record public hearing.

14.06.370 Pre-Decision Open-Record Public Hearing

i This section is based on portions of existing SCC 14.06.160 relevant to pre-decision open-record hearings.

- (1) Purpose. The purpose of a pre-decision open-record public hearing is to facilitate the public review and discussion of the development permit application by the staff, Hearing Examiner, or BOCC, and solicit public comment relevant to the application.
- (2) Applicability. A pre-decision open-record public hearing is required when shown in SCC 14.06.050 Types of Review.
- (3) Burden of proof. The permit applicant bears the burden of demonstrating the application complies with the applicable requirements of this code and other applicable law.
- (4) Joint hearings. At the request of the applicant, the pre-decision open-record public hearing may be combined with any hearing required by another local, state, regional, federal, or other agency, consistent with RCW 36.70B.110(7).
- (5) Procedure.
 - (a) The hearing body must open the public hearing and, in general, observe the following sequence of events:
 - (i) Staff presentation, including submittal of any administrative staff reports. Members of the hearing body may ask questions of the staff.
 - (ii) Applicant presentation, including submittal of any materials. Members of the hearing body may ask questions of the applicant.
 - (iii) Testimony or comments by the public germane to the matter. Before testifying, any witness, including county staff, must be required to declare that he or she will testify truthfully, by oath or affirmation. Questions directed to the staff or the applicant must be posed by the chair or Hearing Examiner at its discretion.
 - (iv) An opportunity for parties to cross-examine expert witnesses, if any.
 - (v) Rebuttal, response or clarifying statements by the staff and the applicant.
 - (vi) Closing of the public hearing. The hearing body may continue the written comment period after the close of the public hearing.
 - (vii) The hearing body must deliberate on the matter before it and make its decision.
 - (b) The BOCC, or the Hearing Examiner as described in SCC 14.02.070, may adopt other rules of procedure not inconsistent with these procedures, and if appropriate to facilitate review of a particular application, may adopt procedures specific to that application.

- (6) Continuances. If for any reason, a meeting or hearing on a pending action cannot be completed on the date set in the public notice, the meeting or hearing may be continued to a specified date and no further notice under this Section is required.

14.06.375 Closed-Record Review of Recommendation

- (1) For a Type 4 review, the Board of County Commissioners serves as decisionmaker after receipt of a recommendation from the Hearing Examiner pursuant to SCC 14.06.150.
- (2) The Board of County Commissioners must meet in a public meeting to review the recommendation of the Hearing Examiner. Pursuant to their procedures, the Board may choose to hear or receive additional arguments from the parties of record, but consistent with RCW 36.70B.050(2), may not hear or consider additional evidence outside of the record established before the Hearing Examiner.

14.06.380 Decision


i This section is based on portions of existing SCC 14.06.160 relevant to pre-decision open-record hearings decisions.

- (1) The decisionmaker for the review type identified in SCC 14.06.150 must issue a decision on the permit application using applicable approval criteria after the application has been reviewed through the review process.

i This next section allowing for early approvals of technical reviews is based on IMC 18.204.180.


- (2) The decisionmaker must:
 - (a) Give substantial weight to the technical reviews performed by the County's technical staff and the County's third-party reviewers on technical matters including but not limited to traffic studies, parking studies and determinations, stormwater, and critical area analyses; or
 - (b) If the applicant has received early approval of those reviews, the decisionmaker must consider the early approval of the applicable reviews final unless the proposal or conditions have substantially changed since the approval, or the approval has expired.
- (3) The decision on the application must be one of the following:
 - (a) **Approval.** A decision of approval may be granted only if the application is consistent with all applicable development regulations.
 - (b) **Approval with conditions.** A decision of approval with conditions may be granted only if the application can be made consistent with all applicable development regulations through the imposition of specific conditions.
 - (c) **Denial.** A decision to deny the application must be issued if the development proposal does not comply with all applicable development regulations and the imposition of reasonable conditions cannot make the project comply with those regulations.
- (4) Content of decision.
 - (a) When a Notice of Decision is not required per SCC 14.06.150, the decision may be represented by stamped approval of the requested permit, certificate, or other document.
 - (b) When a Notice of Decision is required per SCC 14.06.150, the decision must be in writing and include:
 - (i) a statement of the applicable criteria and standards from the Skagit County Code and other applicable law;

- (ii) a statement of the facts showing the application does or does not comply with each applicable approval criterion and the assurance of compliance with applicable standards;
 - (iii) the reasons for the decision or the recommendation to approve or deny the development permit or appeal; and
 - (iv) any conditions or modifications deemed necessary.
- (c) Decision on a Type 4 review must be by resolution or ordinance.

 The information in the Timing section could be inserted into the table in 14.06.150.

- (5) Timing. The decisionmaker must issue a decision on the application within:
- (a) For a Type 3 review, within 30 days following the public hearing, or the public comment deadline, whichever is later. If the decisionmaker does not issue the decision within the allotted time, the Board of County Commissioners may reassign the matter to another decisionmaker to make a decision on the record as prepared.
 - (b) For a Type 4 review, within 60 days after receipt of the Hearing Examiner's recommendation.

14.06.390 Notice of Decision

 This section is consistent with the requirements of RCW 36.70B.130.

- (1) Applicability. This section applies when a Notice of Decision is required by SCC 14.06.150.
- (2) Contents. The Notice of Decision must include all of the following:
- (a) The application number;
 - (b) The name of the applicant;
 - (c) The name of the project;
 - (d) The street address or parcel number of the project site;
 - (e) A description of the application;
 - (f) The date of decision on the application;
 - (g) The date the notice of decision was issued;
 - (h) A summary of the decision on the application;
 - (i) Any SEPA threshold determination made pursuant to Chapter 43.21C RCW;

 The next line is required by RCW 36.70B.130.

- (j) A notice that affected property owners may request a change in valuation from the county assessor for property tax purposes notwithstanding any program of revaluation;
 - (k) The procedure for appeal and the deadline for filing an appeal.
- (3) Timing. The Department must issue a Notice of Decision within seven days of the date of decision.

Part IV. Appeals and Reconsideration

14.06.410 Local Appeal

i This section is based on Issaquah Municipal Code 18.204.200 and existing SCC 14.06.110(13) and SCC 14.06.120(11).

- (1) **Applicability.** This section applies to local appeals of decisions on development permit applications when allowed by SCC 14.06.150.
- (2) **Time to file.** An appeal is timely only if it is:
 - (a) Filed with the Department within 14 calendar days after the written notice of decision is mailed or the building permit is issued; and
 - (b) Accompanied by the required appeal fee.
- (3) **Method of service.** An appeal must be delivered to the Department by mail or personal delivery before 5:00 p.m. on the last business day of the time to file. Appeals received by mail after that deadline will not be accepted, regardless of when such appeals were mailed or postmarked.
- (4) **Contents.** An appeal must be submitted on forms provided by the Department and contain the following:
 - (a) Appellant's name, address, and phone number.
 - (b) A description of the appellant's standing to appeal.
 - (c) Identification of the application or decision that is the subject of the appeal.
 - (d) Appellant's statement of grounds for appeal and the facts upon which the appeal is based, with specific references to the facts in the record.
 - (e) The specific relief sought.
 - (f) A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature or the signature of the appellant's agent, provided such agent's authorization is in writing and accompanies the appeal.
- (5) **Automatic stay.** Except for administrative appeals of SEPA threshold determinations, the timely filing of an appeal will stay the decision until such time as the appeal is concluded or withdrawn.
- (6) **Procedures.** The appellate body may promulgate procedures for conduct of appeal hearings.
 - (a) The appeal procedures may provide for a decision on the appeal after a hearing where the parties present oral argument or after the parties submit arguments only in writing.
 - (b) The decision by the County's SEPA Responsible Official must be given substantial weight in any SEPA appeal proceeding.
- (7) **Decision on Appeal.**
 - (a) The appellate body must issue a written decision on the appeal supported by written findings and conclusions.
 - (b) The appeal record must include the written decision; an audio, video, or written transcript of the appeal hearing; and all exhibits entered into the record.
 - (c) The Department must prepare and distribute a revised notice of decision incorporating the decision on the appeal.
- (8) **Timing.** The appellate body should:

- (a) should conduct its hearing within 30 days of receipt of the appeal; and
- (b) issue its decision within 30 days of the date of the close of the appeal hearing. For an appeal of a Type 1 or Type 2 review, if the appellate body does not issue the decision within the allotted time, the Board of County Commissioners may reassign the matter to another appellate body to make a decision on the record as prepared.

14.06.420 Appeal Hearing

i This section is based on existing SCC 14.06.160 for open-record appeal hearing procedures, and 14.06.170 for closed-record appeal hearing procedures.

- (1) Applicability. This section applies to appeal hearings allowed by SCC 14.06.050 Types of Review.
- (2) Type. An appeal hearing is either an (a) open-record appeal hearing or (b) closed-record appeal hearing, heard by the appeal hearing body as identified by SCC 14.06.050 Types of Review.
- (3) Purpose.
 - (a) The purpose of an open-record appeal hearing is to facilitate the review and discussion of the development permit application by the hearing body, Department, applicant, and public and solicit public comment relevant to the application.
 - (b) The purpose of a closed-record appeal hearing is to facilitate the discussion of the development permit application by the hearing body, Department, and parties of record without consideration of additional facts outside the record for the application.
- (4) Burden of proof and standard of review. The appellant bears the burden of demonstrating that the decision on the application was clearly erroneous.
- (5) Procedure.
 - (a) The hearing body must open the appeal hearing and, in general, observe the following sequence of events:
 - (i) Staff presentation;
 - (ii) Appellant presentation;
 - (iii) Presentation by any other parties of record;
 - (iv) Rebuttal or clarifying statements by staff and the appellant.
 - (v) Deliberations by the hearing body.
 - (b) The hearing body BOCC, or the Hearing Examiner as described in SCC 14.02.070, may adopt other rules of procedure not inconsistent with these procedures, and if appropriate to facilitate review of a particular application, may adopt procedures specific to that application.
- (6) Continuances. If for any reason, a meeting or hearing on a pending action cannot be completed on the date set in the public notice, the meeting or hearing may be continued to a specified date and no further notice under this chapter is required.

14.06.430 Remand

i Based on Anacortes Municipal Code 19.20.190.

- (1) If the appellate body determines that the application record is insufficient or otherwise flawed, the appellate body may remand the matter back to the original decisionmaker to correct the deficiencies.

- (a) The appellate body must specify the items or issues to be considered and the time frame for the additional work.
- (b) The original public hearing may be re-opened if necessary for the limited purpose of addressing specific questions articulated by the appellate body.
- (c) Only the parties of record to the open-record hearing, or in the case of an appeal, the parties to the appeal, may participate in the remand.
- (d) The original decisionmaker must affirm, modify, or reverse its original action based on the revised public record.

14.06.440 Reconsideration

i This section is based on existing SCC 14.06.180 and Anacortes Municipal Code 19.20.200 and Issaquah Municipal Code 18.204.220.

- (1) A party of record for a decision or appeal may seek reconsideration of the decision or the appeal by filing with the Department a written request, alleging specific errors, on forms provided by the Department within 10 days of the date of decision.
- (2) The decisionmaker or appellate body may request the nonmoving party file a response to the request for reconsideration and specify the deadline for same.
- (3) The decisionmaker or appellate body may consider the request without oral argument, or may call for argument in accordance with the procedures for closed-record appeals.
- (4) Reconsideration may be granted only when a material legal error has occurred or a material factual issue has been overlooked that would change the previous decision.
 - (a) If the request is denied, the previous action will remain final.
 - (b) If the request is granted, the decisionmaker may revise and reissue its decision. If the decision is revised and the decision requires a notice of decision, the Department must prepare and distribute a revised notice of decision.
- (5) The decisionmaker or appellate body is deemed to have denied the request if, within 20 days from the date the request is filed, the decisionmaker or appellate body does not either:
 - (a) issue a decision on the request; or
 - (b) serve the parties with a written notice specifying the date by which it will act on the petition.

14.06.450 Exhaustion of Administrative Remedies

i This is a new section based on Anacortes Municipal Code 19.20.210 and Issaquah Municipal Code 18.204.220.C.3 and 18.204.240. This section replaces existing SCC 14.06.220 Judicial Appeals, which also contained additional material deemed surplusage.

- (1) To exhaust administrative remedies, an appellant must file and complete the appeal identified in SCC 14.06.150 for the relevant type of review.
- (2) No further local appeal is available when the appeal allowed in SCC 14.06.150, if any, has been heard and a decision on the appeal (other than a remand) has been issued.
- (3) A request for reconsideration is not required to exhaust administrative remedies. If a request for reconsideration is timely filed, the time for filing a petition for judicial review does not commence until the decisionmaker disposes of the petition for reconsideration.

Part V. Permits

14.06.510 Applicability

This Part applies to development permits that have been issued pursuant to this title.

14.06.520 Permit Term, Extension, and Expiration

i This is a new section based on Issaquah Municipal Code 18.206.040.

- (1) Initial term.
 - (a) A permit is valid for the initial term shown in Table 14.06.520-1 unless extended by the Director.
 - (b) A permit's initial term is measured from the date of project or permit approval specified in the Notice of Decision, except that if the decision is appealed, the effective date will be the date of decision on appeal. The initial term for a shoreline permit commences on the effective date of the permit as defined in WAC 173-27-090.
- (2) Extension. The Director may extend a permit the number of times shown in Table 14.06.520-1, for the length of extension indicated, only if all of the following criteria are met:
 - (a) A written request is submitted on forms provided by the Department;
 - (b) The permit has not yet expired;
 - (c) Any applicable fee has been paid;
 - (d) The permitted use remains a permitted use in the zone;
 - (e) The permit remains in compliance with the County's stormwater permit requirements and critical area standards;
 - (f) The permit remains substantially in compliance with the land use standards in place at the time the extension is requested, including but not limited to parking, setbacks, signs, landscape, and building height; or as an alternative, the Director may condition the permit extension in accordance with the appropriate land use review process in order to comply with the foregoing standards.
- (3) Expiration.
 - (a) A permit issued under this title will expire if, on the date the permit expires, the permit holder has not performed the work indicated in Table 14.06.520-1 or fulfilled the requirements of the applicable permit.
 - (b) Exception. The initial permit term does not include the time during which a permit was not actually pursued by construction because of pending litigation related to the permit or because the applicant was diligently pursuing permits from other agencies necessary for construction.

! Need to ensure this table is complete.

! We should amend SCC 15.04.030 regarding amendments to the IBC/IRC for expiration to refer to this section, and put the standards in this section. That's especially important for compliance with the County's stormwater permit.

Table 14.06.520-1 Permit Expiration Timelines

Type of Permit	Initial Term	Number of Allowed Extensions	Length of Allowed Extension
Boundary line adjustment	1 year to record	1	1 year
Building permit	See SCC 15.04.030		
Critical Areas Variance	3 years to establish the use, per SCC 14.24.140(6)		
Preliminary plat, short plat, binding site plan	Time to submit final plat is as set forth in RCW 58.17.140		
Shoreline Permit	See WAC 173-27-090		
Sign permit	3 years to establish the use	1	1 year
Special Use Permit	3 years to establish the use	1	1 year
Variance	3 years to establish the use	1	1 year

14.06.530 Permit Revision

i This is a new section based on Issaquah Municipal Code 18.206.030.

- (1) A major revision to an approved permit requires a new application. A minor revision to an approved permit is reviewed consistent with SCC 14.06.150. The Director may condition approval to ensure compliance with this section.
- (2) Types of revisions.
 - (a) A major revision is any revision other than a minor revision, or a revision that does not qualify as a minor revision when considered cumulatively with other minor revisions since initial issuance of the permit.
 - (b) A minor revision is a revision that does not:
 - (i) Increase the area of the use by more than 10%;
 - (ii) Increase the intensity of the use in a way that significantly affects the surrounding area in terms of traffic, noise, hours of operation, parking, or other impacts;
 - (iii) Increase the number of lots, dwelling units, or density;
 - (iv) Decrease the quality or amount of open space;
 - (v) Result in any significant environmental impact not adequately reviewed or mitigated by previous documents;
 - (vi) Expand onto property not included in the original proposal.
- (3) A permit revision may not extend the time for expiration.

14.06.540 Assurance Devices


i This is a new section is based on Issaquah Municipal Code 18.206.020.

- (1) The Director may condition a permit approval to require the posting of a performance bond, maintenance bond, or other surety to ensure that the approval conditions are met to the satisfaction of the County.
- (2) The Director may, upon request, allow or require the applicant to provide other suitable security, including but not limited to cash deposits, letters of credit, bonds, and assignment of banking accounts.
- (3) The Director may impose a reasonable administrative fee to cover the County's costs of administering a bond or other security requested by the applicant. This fee may not be imposed when the director requires the provision of a particular form of bond or suitable security. Administrative fees may be proportional to the total amount of the bond or other suitable security.
- (4) Unless more specifically provided elsewhere, the default amount for bonds are as follows. The Director may require a higher or lower amount based on the circumstances of the application.
 - (a) The default amount for a performance bond is 150% of the cost of all improvements. The bond must be provided before final plat or occupancy, whichever is first, and must remain in place until improvements are accepted by the County.
 - (b) The default amount, and duration, for a maintenance bond is shown in the table below.

Table 14.06.440-1 Maintenance Bond Default Amounts and Durations

Type of Construction	Default Amount	Duration
Utilities/frontage/fixed assets	30% of value	1 year
Landscaping	50% of cost of plants, irrigation, and labor	2 years
Critical areas	50% of value	5 years

Chapter 14.16 Zoning

 The ordinance will need to include several amendments to Chapter 14.16 Zoning where the code restates the “application level” of various decisions to update those references to SCC 14.06.150. Determinations of what type of review is applied to various decisions should not exist in the code more than once; they should all be contained within the table in proposed SCC 14.06.150.

Chapter 14.18 Land Divisions

No change to any section of this chapter except the following:

14.18.700 Boundary line adjustments

i The purpose statement is only amended to add the final sentence to correct potential misunderstandings of the purpose of a boundary line adjustment, since this section is in the code chapter about land divisions.

(1) Purpose. The purpose of this Section is to provide procedures and criteria for the review and approval of minor adjustments to boundary lines of lots of record or building sites in order to rectify defects in legal descriptions, to allow the enlargement or merging of lots to improve a building site including increased protection of critical areas, to achieve increased setbacks from property lines or critical areas, to correct situations wherein an established use is located across a lot line, to combine substandard lots of record pursuant to SCC 14.16.850(4)(a) and 14.18.000(9)(a), or for other similar purposes. A boundary line adjustment is not a land division; procedures for boundary line adjustments are placed in this chapter solely for administrative convenience.

(2) [No change.]

i This section is amended to require a lot certificate be issued or reissued at the time of boundary line adjustment. The effect of that change is to avoid having to pursue lot certification at the time of later building permit application.

(3) Final Approval and Recording Required.

- (a) A title insurance certificate updated not more than 30 days prior to recording of the adjustment, which includes all parcels within the adjustment, must be submitted to the Department with boundary line adjustment final review documents. All persons having an ownership interest within the boundary line adjustment shall sign the final recording document in the presence of a notary public.
- (b) Prior to final approval, documentation authorizing the transfer of property ownership shall be placed on the original boundary line map along with the legal descriptions of those portions of land being transferred when lots are under separate ownership. Lot lines within lots under the same ownership will be adjusted upon the recording of the boundary line adjustment.
- (c) Boundary line adjustments shall be based on legal descriptions, certified by a licensed surveyor or title company, of the revised lots, tracts, or parcels.
- (d) The Department must issue and record lot certification for the adjusted lots concomitant with approval of the boundary line adjustment.