

An Ordinance Repealing Resolutions No. 3078 and R20090532 and Reestablishing the Skagit County Planning & Development Services Department and Planning Commission

Whereas until now Skagit County has conducted its land use planning under the Planning Enabling Act, RCW Chapter 36.70;

Whereas the Planning Enabling Act does not establish itself as the exclusive authority for local government land use planning;

Whereas there is at least one other statutory scheme for county land use planning embodied in RCW Chapter 35.63;

Whereas the Washington State Constitution, in Article XI, Section 11, establishes the right of a county to “make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws”;

Whereas the Washington State Supreme Court in *Buell v. City of Bremerton*, 80 Wn.2d 518, 520, 495 P.2d 1358, 1360 (1972) validated the City of Bremerton’s authority to plan directly under the State Constitution without reliance on state planning enabling legislation;

Whereas the City of Bellingham (BMC 2.21.010) and King County (KCC 21A.01.020) conduct their land use planning under the Constitutional provisions, and Clark and Thurston counties conduct land use planning pursuant to RCW Chapter 35.63;

Whereas the Growth Management Act, RCW Chapter 36.70A, has extensive public participation requirements, some of which conflict with the Planning Enabling Act;

Whereas the Planning Enabling Act requires staggering of Planning Commission terms, but over time that staggering has been lost such that four planning commissioners’ terms end on January 31 and four other terms end in the next year;

Whereas the Board of County Commissioners desires to evenly stagger Planning Commission terms and make other changes to the structure of the Planning Commission;

Whereas Skagit County first established its GMA public participation program in Resolution 16519 (1997) and amended in Resolution 16852 (1998);

Whereas the Board of County Commissioners desires to update public notice requirements for the 21st Century;

Whereas the Growth Management Act at RCW 36.70A.140 requires “early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans”;

Whereas, in January 2012, the Board of County Commissioners sent a letter to the Planning Commission soliciting their feedback on possible reforms;

Whereas the Planning Commission discussed possible reforms at their February 7 and March 6, 2012, meetings;

Whereas, on January 10, the Board of County Commissioners published a legal notice advertising a written comment period and public hearing, which it held on January 22, 2013;

Whereas the included revisions to the public participation program in Skagit County Code Title 14 do not constitute a development regulation or official control;

Whereas adoption of this ordinance is categorically exempt under the State Environmental Policy Act pursuant to WAC 197-11-800(19).

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

- Section 1. This ordinance may be cited as the Land Use Legislative Reform Ordinance of 2013.
- Section 2. [Resolution No. 3078](#), establishing the planning department and planning commission, is hereby repealed.
- Section 3. [Resolution R20090532](#), adopting bylaws for the planning commission, is hereby repealed.
- Section 4. The planning department and planning commission are both hereby re-established pursuant to Article XI, Section 11 of the Washington State Constitution;
- Section 5. A new chapter 2.80 is hereby added to the Skagit County Code, and Skagit County Code chapters 14.02 and 14.08 are hereby amended, as described in Attachment A;
- Section 6. If any portion of this ordinance is found unlawful, all other portions remain in effect.
- Section 7. This ordinance is effective February 1, 2013.

Witness Our Hands and the Official Seal of Our Office this __ day of _____, 2013.

**Board of County Commissioners
Skagit County, Washington**

Sharon D. Dillon, Chair

Ron Wesen, Commissioner

Kenneth A. Dahlstedt, Commissioner

ATTEST:

Linda Hammons, Clerk
Skagit County Board of Commissioners

APPROVED AS TO CONTENT:

Dale Pernula, Director
Planning & Development Services

APPROVED AS TO FORM:

Ryan Walters, Civil Deputy
Skagit County Prosecutor's Office

Attachment A
Changes to Skagit County Code Chapters 2.80, 14.02, and 14.08

New Chapter 2.80, Administrative Departments

2.80.100 Planning and Development Services Department.

- (1) Created. There is hereby reconstituted and created an administrative department called the Planning and Development Services Department.
- (2) Functions. Department functions are authorized pursuant to Article XI, Section 11 of the State Constitution and not state planning enabling statutes. Department functions include:
 - (a) Advising the Board of County Commissioners and other departments regarding the Comprehensive Plan, land use planning and policy, and growth management;
 - (b) Administering and enforcing the unified development code and building codes, including the fire code;
 - (c) Providing administrative support to the Planning Commission; and
 - (d) Performing environmental review pursuant to the State Environment Policy Act.
- (3) Director. The Board of County Commissioners may appoint a director of the department, who is directly responsible to the Board of County Commissioners for the following:
 - (a) the proper operation of the department;
 - (b) employing, supervising, and dismissing the personnel of the department;
 - (c) issuing decisions as the Administrative Official pursuant to SCC Title 14;
 - (d) issuing decisions as the SEPA responsible official pursuant to SCC Chapter 14.12;
 - (e) providing administrative and technical assistance to the Planning Commission.
- (4) Building Official. The Director may appoint a Building Official, who is directly responsible to the Director and for decisions as the Building Official pursuant to SCC Title 15.

Comment [RW1]: Similar to Bellingham language.

Comment [RW2]: Based on list in Resolution 3078.

- (5) Fire Marshal. The Director may appoint a Fire Marshal, who is directly responsible to the Director and for decisions as the Fire Marshal pursuant to SCC Title 15.

Chapter 14.02, General Provisions

14.02.010 — 14.02.070

[No change.]

~~14.02.080 Planning Commission.~~

- ~~(1) The Skagit County Planning Commission, established by Ordinance 3078, consists of 9 members appointed by the Chairman of the Board of County Commissioners and approved by a majority of the Board. The term of office on the Planning Commission is 4 years. Any vacancies are to be filled from the same commissioner district as that of the vacating member.~~
- ~~(2) Removal. After public hearing, any appointed member of the Planning Commission may be removed by the Chairman of the Board, with the approval of the Board, for inefficiency, neglect of duty, or malfeasance in office.~~
- ~~(3) Organization. The Planning Commission shall elect a chairman and vice chairman from among its members, shall appoint a secretary who need not be a member of the Commission, and shall adopt rules for transaction of business and shall keep a public record of transactions, findings and determinations.~~
- ~~(4) Meetings. Not less than 1 regular meeting shall be held each month unless no matters are pending on the Commission calendar.~~
- ~~(5) Powers and Duties. The Skagit County Zoning Ordinance hereby adopts by reference the powers and duties of the Planning Commission as expressed in the Planning Enabling Act, Chapter 36.70 RCW, as now exists or hereafter amended.~~
- ~~(6) Promulgation of Procedural Rules. The Planning Commission may, from time to time, adopt such procedural rules as are reasonably necessary to carry out the duties and responsibilities of the Planning Commission, provided such rules shall not be in conflict with this Chapter, or any other relevant provisions of the Skagit County Code. Such rules shall not take effect until they have been reviewed and approved by the Board of County Commissioners.~~

14.02.100 Planning Commission — Created — Membership

- (1) Created. The Skagit County Planning Commission is hereby reconstituted and created pursuant to Article XI, Section 11 of the Washington State Constitution.

- (2) Purpose. Consistent with RCW 36.70.040, the Planning Commission's mission is to "assist the planning department in carrying out its duties, including assistance in the preparation and execution of the comprehensive plan and recommendations to the department for the adoption of official controls and/or amendments thereto...the planning commission shall conduct such hearings as are required by this chapter and shall make findings and conclusions therefrom which shall be transmitted to the department which shall transmit the same on to the board with such comments and recommendations it deems necessary."
- (3) Authority. The Planning Commission is authorized and required to assist the Department and make recommendations on proposed land use plans, policies, regulations, and amendments, and conduct public hearings as specified in this Title and assigned by the Board of County Commissioners. The Planning Commission may also perform such other duties as are assigned by the Board and not inconsistent with this Title.
- (4) Membership. The Planning Commission is composed of nine members, with three residing in each commissioner district.
- (5) Term.
- (a) Each term begins on February 1 following the expiration of the previous term.
- (b) Each term lasts three years.
- (c) For initial appointments following adoption of this ordinance, the Board must appoint three planning commissioners to fill one-year terms, three to fill two-year terms, and three to fill three-year terms. Each commissioner district should have a one-year, a two-year, and a three-year appointment.

14.02.110 Planning Commission — Appointment — Eligibility — Removal

- (1) Appointment. For each planning commissioner position, the County Commissioner elected from that commissioner district must nominate a current resident of that district. To complete the appointment, the Board of County Commissioners must confirm the nomination.
- (a) At least 45 days before the expiration of a term, or upon a vacancy before the expiration of a term, the Clerk of the Board of County Commissioners must advertise that the Board is seeking letters of interest and statements of qualifications for the Planning Commission position.

(b) Within 60 days of the vacancy, the County Commissioner must nominate the incumbent planning commissioner, nominate a person who submitted a letter of interest, nominate another person, or re-advertise the position.

(c) If the County Commissioner does not nominate a person within 90 days of the vacancy, the Board of County Commissioners may appoint any current resident of the district.

(2) Vacancies. The Board must fill a vacancy that occurs during a term with an appointment for only the unexpired portion of that term.

(3) Eligibility. The Board of Commissioners should appoint Planning Commission members who—

(a) represent varying geographic, demographic, and socioeconomic perspectives;

(b) ensure effective representation of unincorporated areas of the county;

(c) collectively, represent a broad range of local opinion, experience, and expertise, and are entrusted to make recommendations reflecting the broad interests of the community;

(d) are free of incompatibility and conflict of interests with other municipal organizations, agencies, and entities within Skagit County;

(e) are able to comply at all times with county ethics and conflicts of interest policies; and

(f) are able to receive meeting materials electronically.

(4) Removal. The Board of County Commissioners may remove any planning commissioner for inefficiency, negligence of duty, or malfeasance of office.

Comment [RW3]: Language from Planning Enabling Act.

14.02.120 Planning Commission — Officers

(1) Chair and Vice Chair.

(a) Election. The Planning Commission must elect its Chair and Vice Chair from among its membership at the first regular meeting after February 1 of each calendar year. The Planning Commission must fill an officer vacancy at the first regular meeting following announcement of the vacancy.

(b) Duties. The Chair presides at all meetings of the Planning Commission, enforces the rules of procedure, and signs recorded motions on behalf of the Planning

Commission. The Vice Chair has no duties but to serve as Chair in the absence of the Chair.

(2) Secretary. The Director of the Planning and Development Services Department or the Director's designee serves as secretary to the Planning Commission and is responsible to:

(a) maintain the Planning Commission calendar, public notices, and records;

(b) set the Planning Commission agenda, in consultation with the Planning Commission chair;

(c) notify planning commissioners of meetings and schedule changes;

(d) take minutes or create an electronic recording of all meetings and hearings, and create transcripts when appropriate to maintain an adequate record of proceedings.

14.02.130 Planning Commission — Meetings

(1) Rules of Procedure. The rules contained in the current edition of Robert's Rules of Order Newly Revised govern the Planning Commission in all cases to which they are applicable. The Planning Commission may adopt special rules of order consistent with this Title, such as some or all of the procedures in Robert's Rules applicable to small boards.

(2) Quorum. A quorum consists of a majority of the current membership of the Planning Commission.

(3) Voting. Pursuant to RCW 42.30, the Open Public Meetings Act, all votes must be public, not secret, and not by ballot.

(4) Staff Participation. County staff members are authorized to raise points of order and interject points of information.

14.02.140 Planning Commission — Duties — Ethics

(1) Duties. Each planning commissioner must:

(a) attend all regular meetings, whenever possible;

(b) notify Planning Commission secretary in advance when unavailable to attend a meeting;

(c) participate in at least one Department-sponsored continuing education or training event per year;

Comment [RW4]: Recommended by MRSC parliamentarian Ann Macfarlane.

(d) comply at all times with the following rules and policies:

(i) County ethics and conflicts of interest policies;

(ii) The Public Records Act, RCW 42.56;

(iii) The Open Public Meetings Act, RCW 42.30.

(e) for quasi-judicial actions, comply with the Appearance of Fairness Doctrine, RCW Chapter 42.36.

(2) Conflict of Interest. If a planning commissioner is an applicant; is a paid or unpaid advocate, agent, or representative of an applicant; or has a financial interest in or for a comprehensive plan amendment or land use application before the Planning Commission, the planning commissioner may not participate in a decision or recommendation on the application, and may not be present in the meeting room during discussion of the application.

Comment [RW5]: From Bainbridge Island code 2.14.020

Chapter 14.08, Legislative Actions

14.08.010 ~~Intent Purpose — Applicability~~

The ~~intent purpose~~ of this Chapter is to establish roles and responsibilities of ~~Planning and Development Services~~ the staff (“Department”), the Planning Commission (“~~Commission~~”), and the Board of County Commissioners (“~~Board~~”) relating ~~related~~ to adoption ~~and amendment~~ of the Comprehensive Plan, subarea plans, functional plans, ~~and~~ development regulations ~~found in SCC Title 14 and amendments thereto~~ pursuant to the requirements of ~~RCW Chapters 36.70 and~~ 36.70A ~~RCW, including the public participation program requirements of RCW 36.70A.130(2)(a) and RCW 36.70A.140 and WAC 365-196-600.~~ This Chapter ~~shall~~ ~~does~~ not apply to review of development permits, or the amendment of County-wide Planning Policies. ~~The responsibilities and procedures for review of development permits are governed by the provisions of Chapter 14.06 SCC.~~

Comment [RW6]: Shorthand terms already defined in SCC 14.04.

Comment [RW7]: Grammar.

Comment [RW8]: “Shall” is bad drafting.

Comment [RW9]: Unnecessary.

14.08.020 ~~Petition for amendments to the Comprehensive Plan Amendments —~~ ~~Petition/rezones.~~

[No change.]

14.08.030 ~~Initiation of review of amendments to the Comprehensive Plan Amendments —~~ ~~Initiation of review.~~

[No change.]

14.08.040 ~~Comprehensive Plan Amendments — Environmental review.~~

[No change.]

14.08.050 Adoption of community (subarea) plans, functional plans, and Shoreline Master Program amendments/Comprehensive Plan Amendments — Docketing exceptions.

~~(1) Initial adoption of a subarea plan or a functional plan shall not be subject to the once-per-year batching requirements or decision of the Board to initiate review requirements described in SCC 14.08.020 and 14.08.030, but shall be subject to the review procedures and requirements contained in the balance of this Chapter.~~

Comment [RW11]: Exception reworded below.

- ~~(a) Periodically, Planning and Development Services shall request that the Board review and prioritize the list of remaining community plans.~~
- ~~(b) The development of a community plan can either be initiated by the Board or by individual citizens or groups or a collaboration of the two.~~
- ~~(c) A citizen advisory committee shall be formed and public outreach procedures designed, consistent with the County's public participation program, for each plan.~~
- ~~(d) Community plans shall be consistent with the Comprehensive Plan.~~
- ~~(e) The Board shall have final review and approval authority for all community plans and any changes to the County Comprehensive Plan or development regulations shall be processed as a legislative action according to Chapter 14.08 SCC.~~

~~(2) A proposed amendment to the Skagit County Shoreline Master Program shall not be subject to the once-per-year batching requirements or decision of the Board to initiate review requirements described in SCC 14.08.020 and 14.08.030. Shoreline Master Program amendments shall instead follow the process required in Chapter 173-19 WAC and Chapter 90.58 RCW.~~

Comment [RW12]: Included in list of exceptions in GMA.

~~A comprehensive plan amendment that qualifies for the exception in RCW 36.70A.130(2)(a), or adoption or amendment of a functional plan, such as an open space or parks plan, need not be considered concurrently with other comprehensive plan amendments in the same calendar year, and is not subject to the requirements of SCC 14.08.020 and 14.08.030.~~

14.08.060 Initiation of review of development regulations/amendments to SCC Title 14 Development Regulations — Initiation of review.

~~New development regulations or amendments to development regulations may be initiated at any time by a recommendation from the Department to the Board. After receipt of a recommendation from the Department on 1 or more proposed development regulations or amendments, the Board shall, in a public meeting, consider the Department recommendation on the proposed regulation(s) or amendment(s) and decide whether to initiate review of the proposed regulation(s) or amendment(s). If the Board decides to initiate review of the proposed regulation(s) or amendment(s), it shall refer the same to the Planning Commission for review, consistent with the provisions of SCC 14.08.080 through 14.08.100. A decision by the Board to initiate the regulation(s)~~

~~or amendment(s) review process at this stage is procedural only and does not constitute a decision by the Board as to whether the regulation or amendment will ultimately be approved.~~

- ~~(1) The Board may initiate the process of adopting or amending development regulations at any time. To do so, the Board must adopt a resolution adding the project to the Department's legislative work program.~~
- ~~(2) Pursuant to RCW 36.70A.470, any interested person may suggest development regulation amendments consistent with the process for initiating a comprehensive plan amendment petition. No fee is required. The Board must consider any such suggestions consistent with the process for docketing comprehensive plan amendment petitions.~~

14.08.070 Public participation requirements.

- ~~(1) This Section addresses the creation and roles of Citizen Advisory Committees (CACs) and Technical Advisory Committees (TACs), and provides for public notification requirements in addition to any such requirements otherwise required by this Chapter.~~
- ~~(2) Unless exempted by this Section, the Board shall establish 1 or more CACs or TACs, as appropriate, to participate and assist in the initial development of Comprehensive Plan elements, subarea plans and functional plans. The Board shall seek to have a variety of interests represented on such committees.~~
- ~~(3) A CAC or TAC may be initiated by 1 of the following methods:
 - ~~(a) The Board may establish one by resolution; or~~
 - ~~(b) Any citizen may request the Board to consider calling for a new CAC or TAC relating to a GMA purpose. The Board will take public comment on the request. If the Board is convinced that a new CAC or TAC would be useful, the Board may authorize its formation by resolution.~~
 - ~~(c) The BCC may establish a procedure for taking applications and selecting membership to the CAC or TAC, including establishing a term of service and a method of reappointment (if any) or replacement of members. The BCC may also establish by resolution rules of procedure and time frames for recommendations by a CAC or TAC.~~~~
- ~~(4) CACs and TACs shall follow the requirements of Chapter 42.30 RCW, Open Public Meetings Act. All meetings of the CAC or TAC shall be open to the public and held at a site and times when the working public can attend. The CAC and TAC shall establish and publish a schedule of meeting days, times and locations for main group and subcommittee meetings and shall keep minutes of committee and subcommittee meetings.~~

Comment [RW13]: These sections are moved to section .230.

- ~~(5) A County staff person will be assigned to each CAC and TAC, and will provide staff support and maintain a copy of the record of such committee or subcommittee.~~
- ~~(6) Notwithstanding the procedure outlined in this Section, if the Board determines that time constraints imposed by orders from the Western Washington Growth Management Hearings Board or other legal requirements likely cannot be met if a CAC or TAC is established and utilized as provided in this Section, the Board need not honor a request to form the CAC or TAC, even if it would be useful to do so.~~
- ~~(7) The Board may forward a CAC or TAC recommendation to the Planning Commission, or it may make suggested changes to such recommendation and either remand it to the CAC or TAC for further consideration, or forward the CAC or TAC recommendation to the Planning Commission with the Board's suggested changes.~~
- ~~(8) Public Notification — General Legislative Proposals. Where public notice is otherwise required by this Chapter, information regarding any legislative proposal shall also be broadly disseminated to the public using 1 or more of the following methods as determined to be appropriate for the specific proposal by the Administrative Official or Board:
 - ~~(a) Publishing an additional paid public notice sufficient to inform the public of the nature of the proposal, the date and time of the public hearing, the appropriate contact name and number, and the availability of relevant draft documents;~~
 - ~~(b) Distributing a press release to the newspaper of general circulation, or radio station in the County, city, or general area where the proposal is located or that will be affected by the proposal;~~
 - ~~(c) Notifying individuals or groups with known interest in the type of proposal being considered, or who have requested to be notified in relation to a specific legislative proposal. The Department may charge a subscription fee for the administration of mailing lists of persons or groups requesting to be notified in writing, when such notification has also been published in the newspaper of general circulation;~~
 - ~~(d) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and~~
 - ~~(e) Publishing notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.~~~~
- ~~(9) Public Notification — Site Specific Comprehensive Plan/Zoning Map Amendments. Where public notice is otherwise required by this Chapter, for site specific legislative proposals, such notice shall be mailed directly to the owners of the affected properties, and to all property owners within 300 feet of the subject property.~~

Comment [RW14]: Reconstituted in new section .210

Comment [RW15]: Reconstituted in new section .220

- ~~(10) Public Participation. In addition to public notice as otherwise required by this Chapter, the public shall have the opportunity to participate in County legislative matters via public hearing(s), written comment, and other forums as appropriate.~~
- ~~(1) Purpose. RCW 36.70A.140 requires the County to provide for “early and continuous public participation” in the consideration of comprehensive plans and development regulations, including “broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, communication programs, information services, and consideration of and response to public comments.” This section is intended to meet and exceed these requirements.~~
- ~~(2) Early notice. Upon Initiation of Review described above, the Department must create a page on the Department website describing the issue and the Department’s proposed approach to the project. The Department must provide public notice of the new project, consistent with SCC 14.08.210.~~
- ~~(3) Planning Commission consultation. The Department must make an initial presentation on the project to the Planning Commission and provide an opportunity for discussion of approaches and alternatives.~~
- ~~(4) Draft proposal. The Department must generate the text of the proposal, include any maps or other material that constitute part of the proposal, and may include as options the alternatives that the Planning Commission identified.~~
- ~~(5) Staff report. When the Department releases the complete draft proposal, it must also release a staff report that includes the following elements:~~
- ~~(a) Background: statement of issue and statutory requirements.~~
 - ~~(b) Summary: description of proposed plan or code amendment.~~
 - ~~(c) Analysis: assessment and evaluation of proposal.~~
 - ~~(d) Recommendation: a recommendation for adoption of one of the approaches.~~
 - ~~(e) Consistency: a comparison of the proposal to relevant plans and policies (e.g. Comprehensive Plan, subarea plans) and evaluation for consistency.~~
 - ~~(f) Process:~~
 - ~~(i) dates and description of all public notices.~~
 - ~~(ii) description of SEPA threshold determination.~~

(iii) information on how the public can comment on the proposal.

(iv) deadlines for public comment, and

(v) address of project webpage.

(6) Formal public comment. The Department must provide public notice of the release of the draft proposal consistent with SCC 14.08.210 and must provide a written comment period and a public hearing consistent with SCC 14.08.220.

14.08.080 Review by Planning Commission.

(1) Prior to Planning Commission review, the Department shall prepare a staff report on any proposed plans, amendments or development regulations summarizing the comments and recommendations of any Citizen Advisory Committee or Technical Advisory Committee as provided in the Skagit County Growth Management Act Public Participation Program as amended, County departments, affected agencies and special districts, and evaluating the proposed plan's, plan amendment's, or development regulations' consistency with adopted County plans and regulations. The staff report shall include findings, conclusions and proposed recommendations for disposition of the proposed plan, plan amendment or development regulations. The staff report, together with proposed drafts of the plan, plan amendment or development regulations, shall be available to the public a minimum of 15 calendar days before a public hearing on the proposed plan, plan amendment, or development regulations.

(2) Unless adopted as an interim ordinance under the provisions of RCW 36.70A.390, the Commission shall hold at least 1 public hearing on a proposed plan, plan amendment or development regulation at the beginning of its deliberations prior to forwarding a recommendation to the Board for action.

(3) Notice of the public hearing shall indicate the time, place and purpose of the public hearing, and shall be published in the official newspaper of the County at least 15 days prior to the hearing.

(1) Public Hearing.

(a) The Planning Commission must hold at least one public hearing before issuing a recommendation on the proposal.

(b) If necessary due to the number of people present to comment, the Planning Commission may continue the public hearing to another date, time, or location. If the proposal evolves substantially during deliberations, the Planning Commission may request that the Department schedule an additional public hearing before continuing deliberations.

Comment [RW17]: These provisions don't actually pertain to PC review. Reconstituted above in public participation section.

Comment [RW18]: Not quite consistent with the statute, and addressed below.

Comment [RW19]: Notice is now addressed by section .220.

~~(4) The Commission shall consider public comments and deliberate on the proposed plan, plan amendment or development regulation. At the completion of its deliberations, the Commission shall vote to recommend adopting, not adopting or amending the proposed plan, plan amendments or development regulation.~~

Comment [RW20]: Reworded below.

~~(2) Deliberation~~

~~(a) Required consideration. The Planning Commission must consider the following in making its recommendation:~~

~~(i) written comment and public hearing testimony received during any public comment period;~~

~~(ii) recommendations and analysis from relevant County advisory groups;~~

~~(iii) staff recommendations and analysis;~~

~~(iv) legal advice;~~

~~(v) consistency of the proposal with the comprehensive plan;~~

~~(vi) for proposed Comprehensive Plan map changes, whether the proposal is justified by changed or changing conditions, whether the proposal would create an isolated land use designation unrelated to adjacent designations (a spot zone), and whether the proposal will be compatible with neighboring properties and not adversely affect the value of those properties.~~

~~(b) Ability to ask follow-up questions. The Planning Commission may ask follow-up questions of those that testify or submit written comments in order to clarify their testimony or request further information.~~

~~(c) Ability to continue deliberations. The Planning Commission may continue their deliberations to a subsequent meeting if it needs additional information or additional time to deliberate.~~

~~(5) Commission recommendation to the Board on any plan, plan amendment or development regulation shall be by affirmative vote of not less than 5 members, a majority of the total membership of 9 members, of the Commission. Recommendations shall be by a recorded motion which shall incorporate the findings of fact of the Commission and the reasons for its recommendation, and the motion shall refer expressly to any maps, descriptive material and other matters intended by the Commission to constitute the recommendation. The indication of approval by the Commission shall be recorded on any map and descriptive material, as applicable, by the signatures of the chairperson and the secretary of the Commission.~~

Comment [RW21]: No longer required.

Comment [RW22]: Incorporated below.

(3) Recommendation to Department.

- (a) Timing. At the conclusion of its deliberations, the Planning Commission must vote on the proposal.
- (b) Vote. The Planning Commission may vote to recommend approval, approval with modifications, or rejection of the proposal. The Planning Commission may recommend general modifications to the proposal and need not provide explicit textual edits.
- (c) Content. The Planning Commission's recommendation on a proposal must be by recorded motion, which must contain the following components:
 - (i) Findings of fact: a list of facts that the Planning Commission believes to be true and that are relevant to its recommendation on the proposal.
 - (ii) Reasons for action: an explanation of the Planning Commission's rationale in making its recommendation.
 - (iii) Recommendation: the recommendation resulting from the vote;
 - (iv) Vote: a record of the roll call vote on the entire recorded motion.
 - (v) Additional comments: any other comments, suggestions, or recommendations, not strictly related to the proposal, that the Planning Commission desires to include.
 - (vi) Signatures of the chair and secretary attesting that the recorded motion reflects the Planning Commission's decision.

(4) Transmission to Board.

- (a) Timing. Within 14 days of receipt of the Planning Commission's signed recorded motion, the Department must formulate and transmit its recommendation to the Board of County Commissioners.
- (b) Content. The Department's transmission must include:
 - (i) the Department's initial staff report;
 - (ii) the Planning Commission's recorded motion;
 - (iii) the Department's recommended changes to the proposal, if any, in response to the Planning Commission's recommendations;

(iv) an evaluation of what further process is required to adopt the proposal, consistent with SCC 14.08.090;

(v) a draft ordinance adopting the Department's recommendations.

~~(6) All or any part of a plan, development regulation or amendment thereto shall be recommended for approval by the Commission only if it is consistent with the community vision statements, goals, objectives, and the policy directives of the Comprehensive Plan and the proposal preserves the integrity of the Comprehensive Plan and assures its systematic execution.~~

Comment [RW23]: Incorporated above.

~~(7) Any Commission recommendation on a proposed plan, regulation or amendment thereto shall include a discussion of whether the proposal is supported by capital facility and functional plans; whether the proposal is consistent with the requirements of the Growth Management Act, (Chapter 36.70A RCW), the Countywide Planning Policies and other applicable provisions of the Comprehensive Plan; and whether the proposal bears a substantial relationship to the public general health, safety, morals or welfare. For proposed Comprehensive Plan map changes, the Commission recommendation shall also include findings of fact and conclusions on whether the proposal is justified by changed or changing conditions; whether the proposal would create an isolated land use designation (spot zone) unrelated to adjacent designations; and whether the proposal will be compatible with neighboring properties and not adversely affect the value of those properties.~~

Comment [RW24]: Reworded in staff report section.

~~(8) A copy of any plan, plan amendment or development regulation recommendation, together with the recorded motion shall be submitted to the Board not later than 14 days following the date the recorded motion is signed by the chairperson of the Commission, together with the statement of findings and conclusions.~~

Comment [RW25]: Moved to deliberations section.

~~(9) Any report or recommendation from the Commission, whether on a proposal initiated by it, whether on a matter referred back to it by the Board for further report, or whether on a matter initiated by the Board, shall be advisory only and the final determination shall rest with the Board.~~

Comment [RW26]: Revised and incorporated above.

Comment [RW27]: Understood and unnecessary.

14.08.090 Review and decisions by Board.

~~(1) Upon receipt of a recommendation on all or any part of a plan, plan amendment or development regulation from the Planning Commission, the Board shall consider and take action on the recommendation at a public meeting. Upon receipt of a recommendation pursuant to SCC 14.08.080(4), the Board must consider and take action on the recommendation.~~

~~(2) If the Board agrees with the recommendation of the Planning Commission on a proposed plan, plan amendment, or development regulation, it shall take action consistent with the Commission's recommendation as prescribed below:~~

~~(2) Provided that The Board may take final action with no further process in any of the following situations:~~

~~(a) when the plan, plan amendment, or development regulation desired adopted by the Board conforms substantially to the proposal as originally initiated and made available for public comment, the Board may take final action with no further process. For purposes of this Section~~

~~(a)(b) pursuant to RCW 36.70A.035, when any of the following are true, an additional opportunity for public comment is not required if:~~

- ~~(i) An environmental impact statement (EIS) has been prepared under Chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;~~
- ~~(ii) The proposed change is within the scope of the alternatives available for public comment;~~
- ~~(iii) The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;~~
- ~~(iv) The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or~~
- ~~(v) The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.~~

~~(c) when the action is to preserve the status quo and reject any and all changes in their entirety:~~

~~(3) In cases where a recommendation for adoption includes a substantial change to the proposal, and the Board desires to consider the change, the Board shall must allow additional public comment opportunity prior to final action to adopt a proposal with a substantial change from the draft made available for public comment. The Board may must choose any 1 one or more of the following options to provide such opportunity:~~

~~(a) Board initiation of an additional written public comment period with Board review of public comments;~~

Comment [RW28]: Surplusage.

Comment [RW29]: Paragraph break to highlight that (a) and (b) are different scenarios.

Comment [RW30]: Useful reference information.

Comment [RW31]: Reworded for parallel construction.

- (b) ~~Board initiation of 1 one~~ or more public hearings ~~before the Board~~;
 - (c) ~~Remand of issue(s) to the Department or the Planning Commission for additional work, study, review, or refinement;~~
 - (d)(c) ~~Remand of issue(s) to the Planning Commission for further~~ remand of issue(s) to the Planning Commission for further recommendations after an additional written public comment period, or an additional public hearing, or both;
 - (e) ~~Remand of issue(s) to the Planning Commission for additional public hearing(s) and recommendations;~~
- (4) ~~If the Board authorizes further public comment and consideration consistent with the procedures for changes to plans, plan amendments, or development regulations as described in Subsection (2)(b) of this Section, notice as required in SCC 14.08.080(3) shall be provided. If the Board adopts a substantial change without chooses not to remand an issue, it shall must adopt its own findings of fact and a statement reasons for action, setting forth the factors considered in the public comment or at the hearing and its own analysis of findings considered by it to be controlling.~~
- (5) ~~Reserved. If the Board does not agree, either in whole or in part, with the recommendation of the Planning Commission, or if the Planning Commission forwards an action without an official recommendation, on a proposed plan, plan amendment, or development regulation, the Board shall proceed as follows:~~
- (a) ~~Provided that the plan, plan amendment, or development regulation desired by the Board conforms to the proposal as initiated and made available for public comment, the Board may take final action with no further process.~~
 - (b) ~~In cases where the Board desires to retain the status quo and reject any or all changes in their entirety, the Board may take final action with no further process.~~
 - (c) ~~In cases where the Board wishes to consider a substantial change to the proposal the Board shall allow additional public comment opportunity prior to final action. The Board may choose any 1 or more of the following options to provide such opportunity:~~
 - (i) ~~Board initiation of an additional written public comment period with Board review of public comments;~~
 - (ii) ~~Board initiation of 1 or more public hearings;~~
 - (iii) ~~Remand of issue(s) to the Department or the Planning Commission for additional work, study, review, or refinement;~~

Comment [RW32]: This doesn't actually provide any additional opportunity for comment (and is never used anyway).

Comment [RW33]: Incorporated into bullet above.

Comment [RW34]: Verbose.

Comment [RW35]: Now covered in section .220.

~~(iv) Remand of issue(s) to the Planning Commission for an additional written public comment period;~~

~~(v) Remand of issue(s) to the Planning Commission for additional public hearing(s) and recommendations.~~

Comment [RW36]: Verbose and duplicative. Minor differences in this section are now incorporated above.

- (6) Final Disposition of Annual Docket. The Board must take action on the current year's docket before establishing a subsequent docket. The Board's decision to either approve, deny, or defer action on plans or plan amendments terminates that year's docket. Initiation of any new docket(s) must be established as required in SCC 14.08.030.
- (7) The Board may defer action on any specific plan or plan amendment to a future docket if:
- (a) Additional time is needed to analyze the impacts of the proposal;
 - (b) Delaying action on the proposal would unfairly delay action on other proposals that are otherwise ready for a decision;
 - (c) Approval of the proposal depends on the implementation of other rules, standards or policies that either do not exist or are not official by the time the Board is ready to make its decision on the annual docket; or
 - (d) The Board determines that the proposed plan or plan amendment is more appropriately considered during a subsequent amendment process.

14.08.100 Emergency or interim regulations.

[No change.]

14.08.110 Appeal.

~~(1) Any action to review the final decision of the Board on a plan, plan amendment or development regulation that is subject to the jurisdiction of the Growth Management Hearings Boards shall be processed according to the law governing such challenges.~~

Comment [RW37]: Replaced by the below for clarity.

~~(1) Skagit County does not provide an appeal process for legislative decisions of the Board of County Commissioners.~~

~~(2) If the decision of the Board is not subject to the jurisdiction of the Growth Management hearings Board, appeals shall proceed according to the applicable RCW.~~

Comment [RW38]: Replaced by the below for clarity and to specify applicable RCW.

~~(2) RCW Chapter 36.70A provides an appeal process for plans, development regulations, and amendments.~~

14.08.210 Public Notice.

- (1) Consistent with RCW 36.70A.035(1), “public notice” includes all of the following:
 - (a) publishing a native electronic copy of the document on the project’s webpage on the Department’s website;
 - (b) sending notice to the Department’s e-mail list, including general lists or relevant lists for specific proposals or subject areas;
 - (c) notifying cities, towns, and tribes within the County;
 - (d) notifying the official newspaper of the County.
- (2) For written comment periods and public hearings, “public notice” also includes publishing a paid notice in the official newspaper of the County.
- (3) For site-specific proposals (e.g. site-specific Comprehensive Plan map amendments), the initial “public notice” of a project also includes all of the following:
 - (a) posting notice on the property;
 - (b) mailing notice directly to the owners of the subject property and to all property owners within 300 feet of the subject property.
- (4) Notices must include all of the following:
 - (a) a concise description of the project or proposal in plain English;
 - (b) information on how to provide comment on the proposal;
 - (c) deadlines for public comment;
 - (d) address of the project webpage.

Comment [RW39]: This section eliminates the prior reference to publishing notice in trade journals in favor of new electronic notice requirements.

14.08.220 Public Comment

- (1) Written comment periods.
 - (a) Length. A written comment period must last at least 14 days from the date of advertisement. A longer comment period should be considered for more significant projects.
 - (b) Consolidated end date. A written comment period offered concurrent with advertisement of a public hearing should conclude at the end of the public hearing.

(2) Public hearings.

(a) Notice. A public hearing must be advertised at least 10 days prior to the date of the public hearing.

(b) Rules.

(i) The chair should read an opening statement describing the subject of the hearing and any rules for testimony.

(ii) A commissioner should not interrupt a person testifying except the chair may call the person to order.

(iii) Each person who testifies should receive an equal allotment of time.

14.08.230 Citizen and Technical Advisory Committees.

~~(3)(1)~~ This Section addresses the creation and roles of Citizen Advisory Committees (CACs) and Technical Advisory Committees (TACs), and provides for public notification requirements in addition to any such requirements otherwise required by this Chapter.

~~(4)(2)~~ Unless exempted by this Section, the Board shall may establish 1 or more CACs or TACs, or both as appropriate, to participate and assist in the initial development of Comprehensive Plan elements, subarea plans, and functional plans, and development regulations. The Board shall seek to have a variety of interests represented on such committees.

~~(5)~~ A CAC or TAC may be initiated by 1 of the following methods:

~~(a)~~ The Board may establish one by resolution; or

~~(b)~~ Any citizen may request the Board to consider calling for a new CAC or TAC relating to a CMA purpose. The Board will take public comment on the request. If the Board is convinced that a new CAC or TAC would be useful, the Board may authorize its formation by resolution.

~~(6)(3)~~ The BCCBoard may establish a procedure for taking applications and selecting membership to the CAC or TAC, including establishing a term of service and a method of reappointment (if any) or replacement of members. The BCCBoard may also establish by resolution rules of procedure and time-frames for recommendations by a CAC or TAC.

~~(7)(4)~~ CACs and TACs shall must follow the requirements of Chapter 42.30 RCW, Open Public Meetings Act. All meetings of the CAC or TAC shall must be open to the public and held at a site and times when the working public can attend. The CAC and TAC shall must

Comment [RW40]: New section heading, but existing content, moved down from above.

Comment [RW41]: Now provided by other sections.

Comment [RW42]: Board never creates more than one per project.

Comment [RW43]: Understood.

Comment [RW44]: Not current practice.

Comment [RW45]: Must is better drafting practice.

establish and publish a schedule of meeting days, times, and locations for main group and subcommittee meetings and ~~shall~~ must keep minutes of committee and subcommittee meetings.

~~(8)~~(5) A County staff person will be assigned to each CAC and TAC, and will provide staff support and maintain a copy of the record of such committee or subcommittee.

~~(9)~~ Notwithstanding the procedure outlined in this Section, if the Board determines that time constraints imposed by orders from the Western Washington Growth Management Hearings Board or other legal requirements likely cannot be met if a CAC or TAC is established and utilized as provided in this Section, the Board need not honor a request to form the CAC or TAC, even if it would be useful to do so.

~~(10)~~(6) The Board may forward a CAC or TAC recommendation to the Planning Commission, or it may make suggested changes to such recommendation and either remand it to the CAC or TAC for further consideration, or forward the CAC or TAC recommendation to the Planning Commission with the Board's suggested changes.