



PLANNING & DEVELOPMENT SERVICES

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MEMORANDUM

To: Skagit County Planning Commission
From: Carly Ruacho, Senior Planner
Date: September 24, 2009
Re: Phase 2 Miscellaneous Code Amendments

Upon release and public review and comment of the 2009 Miscellaneous Code Amendments it became clear that there were two distinct groups of amendments, those that were agreeable to all and those that caused some concern. The majority of the amendments (100) received no comment whatsoever. As a result of the lack of public comment, the Department recommended and the Planning Commission concurred that the majority of the proposed code amendments would be bifurcated and that a selected 100 amendments would proceed on a priority track. This group of amendments was termed Phase 1. The short list of amendments that were the subject of public comment indicating some concern was termed Phase 2 and those amendments were tabled temporarily to allow for additional clarification and discussion with interested parties. Many of the items included in the Phase 2 amendments were merely listed by one or more interest groups as possible concerns.

The Department engaged interested parties in informational, interactive meetings to discuss the Phase 2 code changes and to address any areas of concern. Two meetings were held on August 19 and August 26 and representatives from the Agricultural Advisory Board, Forest Advisory Board, Skagit Conservation District, Skagitians to Preserve Farmland, and Western Washington Agricultural Association were in attendance. The meetings were productive and informative and served to open a dialog to discuss the code changes in detail as well as further understand each group's point of view. After discussing each of the amendments raised in comment letters, the group came to consensus on all of the proposed code amendments with the exception of two. One amendment for which consensus could not be achieved (proposed amendments to 14.18.310(5)(b) and 14.24.070(13) relating to CAO regulations for Class 4 General non-conversion forest practice permits) and was removed from the proposal and it was agreed that further study and discussion, on a separate timeline, was necessary. Even though differing opinions remain on one proposed amendment, both the County's position as well as the interest groups concerns are fully understood by each other. Few disagreements remain and consensus and support for many of the 119 proposed code amendments has been obtained.

In some cases minor language changes were necessary to achieve consensus on the amendments. The Department recommends a limited amount of language revisions to the Phase 2 amendments based on public comment and discussion with interest groups. Legal counsel has reviewed the proposed code changes and the Department and legal counsel have determined that none are substantive in nature and therefore no additional public input is required.

Each amendment proposed in Phase 2 is discussed below. A more detailed summary of the need/rational of each amendment is given as well as a characterization of comments or concerns that were originally made on the proposed amendment.

A. 14.04.020 Definitions

The definitions of Family and Group Care Facility were proposed in order to achieve consistency with recently litigated state statutes. Newer interpretations of state law have given additional clarity and guidance as to certain groups that by law are to be considered a family by regulatory agencies. Modifications to Skagit County Code definitions were proposed to come into line with recent rulings on the issue. Although these definitions are included in Phase 2, no public comments were received. Legal counsel recommended additional research prior to final action. Research and legal counsel opinion concur with the amendments as originally released.

Modifications to the definition of Substantial Improvement were proposed to institute a cumulative review for determining improvement and repair costs. The term substantial improvement is included in regulations related to the flood hazard areas of the County. Existing provisions restrict repairs or improvements to “50% of the market value before the damage occurred”. The proposed amendments introduce a 10 year time period for this 50% calculation. The intent of the existing provisions is to limit the substantial improvement or repair of structures in a flood hazard area. In practice, allowing a 50% improvement and/or repair with no associated time frame has the effect of nullifying the intent of the restriction or creating a significant loophole in which landowners can make multiple 50% improvements which circumvents the original purpose. The 10 year time line is also proposed to be added to the Flood Damage Prevention Ordinance for consistency.

Comments were received from the Agricultural community indicating possible concerns with the proposed provisions. The nature of the concern was the question of how the proposed provisions would apply to agricultural structures and operations. Although the new provisions will affect agricultural structures, the representatives participating in the follow-up discussions were comfortable with the new requirements after a clarifying explanation.

B. 14.06 Permit Procedures

1. 14.06.045 Lot certification

Clarifying amendments are proposed to the Lot Certification provisions. These amendments do not change the original intent of the Lot Certification process nor do they change the way the Department implements the provisions. The proposed changes are in response Hearing Examiner rulings on appeals of the Lot Certification provisions. The newly proposed language addresses lots of record with prior restrictions on development. The Lot Certification regulations were not intended to supersede previous decisions made by the County. That notion is clarified with the proposed changes.

Although the amendment was listed as an item of possible concern by the commenter’s, after initial discussion of the basis for the amendment, no additional concerns were raised.

2. 14.06.050 Application Level

Minor language changes are proposed to clarify the categories and process for development permit applications. Legal counsel requested additional time for review of this section and suggested additional clarifying language during their review.

All interested parties were agreeable to the proposed language as amended with no residual concerns.

3. 14.06.150 Public Notice requirements

The Department is proposing amendments to require standard public notice for Forest Practice Conversion and Conversion Option Harvest Plan permit applications.

Initially, members of the Forest Advisory Board voiced concern with the proposed change. FAB members expressed concern with the burden on foresters and landowners to undertake the proposed notification. With additional clarification and upon understanding that notification is performed by the Department the FABs concerns were alleviated.

C. 14.08 Legislative Actions

4. 14.08.020 Petition for amendments to the Comprehensive Plan/rezones

The main concern raised with regard to this section relates to the addition of criteria and processing guidelines for Urban Growth Area (UGA) modification proposals. In June, 2007, the County entered into an agreement with the cities of Mount Vernon, Burlington, Sedro-Woolley, Anacortes and the Town of La Conner and adopted criteria and procedures for UGA boundary modifications. This agreement stems from the 2002 Framework Agreement between the local governments which established the Growth Management Act (GMA) Steering Committee which is comprised of the County Commissioners and Mayors of the Cities and Town (Municipalities). The GMA Steering Committee is authorized by the Framework Agreement to coordinate and address regional land use plans, policies and issues. The County and Municipalities worked cooperatively for over a year, with help from a state agency (CTED) grant, to develop the UGA modification procedures and criteria. The proposed code amendment simply codifies the existing local government agreement by incorporating such into Skagit County Code and thereby making its reference more readily available to interested parties.

Comments were received and continued with follow-up discussion relating to the lack of public involvement in the original development of the UGA Modification Agreement in 2007. After lengthy discussion on the topic, the Department better understood the concerns of the parties and the parties understood, without agreeing, the Department's rationale with regard to codifying the Agreement. This is the one amendment proposal moving forward without consensus. Interest groups are still of the opinion that these amendments should be tabled for further discussion, the Department does not feel that is necessary and that the Agreement should be codified to reflect the previous local government decision and action. That would be productive given that the agreement is and has been in effect for over two years. If the Planning Commission chooses to move forward with the amendments related to this issue, a finding or recommendation regarding future public process for GMA Steering Committee actions could be included.

5. 14.08.030 Initiation of review of amendments to the Comprehensive Plan

6. 14.08.040 Environmental review

Although the Agricultural Advisory Board originally listed these sections as possible concerns, follow-up clarifying discussions have resolved any uncertainty. The proposed changes to these two sections seek to add further detail to docket consideration criteria, eliminate problematic hard and fast dates for processing timelines, as well as clarify fee payments and responsibilities.

7. 14.08.050 Adoption of community (subarea) plans, functional plans, and Shoreline Master Program amendments

The Department's recommendation is to change the word 'shall' to 'may' with regard to Board of County Commissioner review and prioritization of subarea plans. This section illustrates how one-on-one dialog can really help to isolate concerns and act as a forum to develop mutually agreeable solutions. Upon discussion, it became clearer that the Department's intent was to address the existing 'once annual' requirement, not the 'shall or may' language. The interested parties were agreeable to changing the frequency to meet the Department's needs, but strongly preferred to keep the word 'shall'. The group quickly and easily came to consensus on slightly modified language that worked to serve both interests.

8. 14.08.070 Public participation requirements

Upon discussion of the proposed changes clarifying terms and responsibilities regarding public involvement in legislative projects, no concerns were forthcoming from the interested parties.

9. 14.08.080 Review by Planning Commission

Concerns were raised regarding the Department's recommendation to remove reference to the "Skagit County Growth Management Act Public Participation Program". There was a desire to retain the reference due to community and County work during the initial development of the Program after the passage of the Growth Management Act in the 1990's. Although the Department now regulates public participation through codified language, the Department supports retaining reference to the original document to satisfy citizen desire. The Department recommends the reinsertion of the desired language in the location identified in the amendment proposal document.

10. 14.08.090 Review and decisions by Board

There were both language and location changes proposed to the 14.08 chapter. Through discussion and review of the chapter it becomes easier to distinguish the actual 'changes' from language which was simply moved. Familiarity with a code section and its entire content is necessary to be able to fully comprehend the intent of the proposed language, why it is necessary, and to assess the significance, or insignificance, of the changes. Although the Agricultural Advisory Board originally listed these sections as possible concerns, follow-up clarifying discussions have resolved any misunderstanding or uncertainty.

D. 14.12 SEPA

11. 14.12.210 Appeals

State law limits administrative appeals of ‘non-project’ actions to only one. Clarifications were necessary in the SEPA provisions to more plainly reflect this requirement and to remove language that has led to previous misinterpretations. No specific concerns to these provisions were raised during our discussions with interested parties.

E. 14.16 Zoning

12. 14.16.160 Natural Resource Industrial

It was discovered that the code as written regulated a higher level of storage (over 50 and 500 cubic yards respectively) as a Special Use but did not give legal authority to permit the lower levels under any permit type. This was an oversight and was a problematic issue on several projects. Members of the resource community were fearful that the newly added language would somehow prohibit or further regulate storage activities. In reality, the proposed changes will now allow the uses listed (outdoor storage less than 50 and 500 cubic yards respectively) when they were not legally permitted before. This explanation helped the parties to more fully understand the effect of the proposed change and support the amendment as drafted.

13. 14.16.400 Agricultural – Natural Resource Lands

The Department is proposing the addition of language from 14.16.400(6)(b) to 14.16.400(6)(c)(iii) for consistency purposes. Subsection (b) addresses siting criteria in circumstances where no structures or no compatible structures exist on a property. Subsection (c) regulates the siting of new structures when compatible structures do exist. In effect, the omission of the language in subsection (c) penalized owners of lots with no structures/compatible structures which was not the original intent. The addition of the one-acre limit for new, non-agricultural development in 2007 was intended to apply this limitation regardless of the existence, or non-existence of structures on a given lot. The proposed change remedies this unintended discrepancy.

The Agricultural Advisory Board expressed concerns and fears that the new provision would affect the placement of agricultural buildings. Section (6) in general relates only to “new, non-agricultural structures”. With this clarification, no further concerns were forthcoming.

14. 14.16.900 Special use permit requirements

The Department has proposed amended language with regard to mapping of Special Use permits. The existing language required the County to identify all special uses on the zoning map. This requirement has never been satisfied and not for lack of trying, but has proven problematic to map. Practically speaking, the Department does not have a comprehensive list of all Special Use permits that have been approved by the County. Permits date back to the early 1960’s and could only be identified with a sheet by sheet review of every microfiche file. Even that review may not reveal all approvals as some files undoubtedly have not been retained for the entire time period. The most reliable and factual data that the County has is the computer based permit tracking system that was implemented in the 1990’s. Mapping those permits can be achieved, however mapping permits before this time would take significant resources and enormous staff hours and its outcome would be less than comprehensive.

No concerns were directed at this section upon explanation of the desired changes

F. 14.18 Land Divisions

15. 14.18.000 General

The Department proposed and released for public review and comment an amendment to subsection (h) for consistency with the zoning regulations for Industrial Forest – Natural Resource Lands (14.16.410). The proposed change does not affect implementation of the existing regulations; it merely repeats the requirements in the Land Division chapter so as to alert readers to the restrictions of the Industrial Forest zone. The initial release included language applying to Secondary Forest – Natural Resource Lands and Rural Resource – Natural Resource Lands as well. The addition of the two latter zones would have resulted in a new, more restrictive implementation of the land division provisions. Members of the Forest Advisory Board indicated concern over the impact of this provision and requested that the item be tabled for further review and discussion. While the proposed code amendment supports the goals of the Natural Resource Land comprehensive plan policies, the Department agrees that further study and dialog with interested parties is needed. The Department recommends removing the Secondary Forest and Rural Resource zoning designations from this proposal.

G. 14.24 Critical Areas Ordinance

16. 14.24.520 Fish and wildlife habitat conservation area site assessment requirements and management plans

17. 14.24.530 Fish and wildlife habitat conservation area protection standards

Amendments to these sections of the Critical Areas Ordinance (CAO) are proposed as a follow up to the recent update of the CAO. After working with the newly updated ordinance for some months, there have been instances where reinserting previous code language would be instructive. Both staff and the public feel that although the intent of streamlining and simplifying is generally good, reinsertion of the proposed language is necessary and desired. No specific concerns were raised with regard to the language of these sections at the follow-up meetings. **H.**

H. 14.34 Flood Damage Prevention

18. 14.34.190 Standards for development in activities in the floodways

For consistency purposes, Floodway language code modifications were proposed which are similar to the intent of the amendments proposed to the definition of Substantial Improvement which pertains to the Floodplain. The amendments were proposed to institute a cumulative review for determining improvement and repair costs. See the above discussion (A. 14.04.020 Definitions, Substantial Improvement) for further explanation.

Originally Agricultural Advisory Board members raised concerns with this section as it related to agricultural structures. Upon further review, it was determined that this section in its entirety pertains only to ‘residential structures’ which quieted that concern.

I. Conclusion

Any provisions not discussed within this document or adopted previously through Ordinance O20090010 are not recommended or supported by the Department for further consideration at this time.

**Skagit County Code Amendment Summary
(Phase 2)
2009 Update**

#	Code Section	Effect of Change
	14.04.020 Definitions	
1	Family	Modify definition for consistency with governing statutes.
2	Group Care Facility	Modify definition for consistency with governing statutes.
3	Substantial improvement	Modify definition to clarify cumulative nature of improvement calculations.
	14.06 Permit Procedures	
4	14.06.045(1)(b)	Include language addressing lots previously restricted from development.
5	14.06.050(1) and (1)(a)	Add Notice and Order to Abate.
6	14.06.050(1)(c)(i)-(ii)	Transfer project-level review from PC to HE.
7	14.06.150(2)(a)	Remove exemptions to public notice requirements for forest practice applications.
	14.08 Legislative	
8	14.08 (except 14.08.010, 14.08.100, 14.08.110)	General revisions including but not limited to: Inclusion of all rezone criteria within CPA requirements, Amend SRT CPA requirements to require business plan, Modify redesignation language/timeframes for commercial and industrial zoning, Amend exception to once per year CPA language to reflect RCW36.70A.013(2)(b), Clarify 'except rezones in UGAs' language – rezone only, Include UGA modification criteria.
	14.12 SEPA	
9	14.12.210(1)	Modify language to clarify no admin appeals for 'non-project' actions and only 1 admin. appeal.
	14.16 Zoning	
10	14.16.160(3)	Add uses with lower thresholds than (4)(c) and (d). Also add 'usual accessory storage'.
11	14.16.400(6)(c)(iii)	Include language from (6)(b) regarding restrictions.
12	14.16.900(1)(c)	Amend language regarding Special Use mapping requirements.
	14.18 Land Division	
13	14.18.000(5)(h)	Add date certain for fire district inclusion for IF, SF & RRc
	14.24 Critical Areas Ordinance	
14	14.24.520	Reorganization for better flow and understanding.
15	14.24.530	Restoration of previously removed language to clarify intent.

**Skagit County Code Amendment Summary
(Phase 2)
2009 Update**

#	Code Section	Effect of Change
	14.34 Flood Damage Prevention	
16	14.34.190(2)(a)	Modify (a) and (b) such that compliance with each is required – ‘except for both of the following’.
17	14.34.190(2)(b)	Modify repair, reconstruction, improvement provision to calculate 50% limit cumulatively over 10 year period.

Skagit County Code Amendment Proposals
2009 Update
[Phase II, for PC Deliberations October 6, 2009]

1
2 **14.04 Definitions**

3
4 **Family:** an individual, or 2 or more persons related by blood or marriage, or court-approved
5 process, or a group of not more than 5 persons who are not related by blood, marriage, or court-
6 approved process. ~~excluding unrelated, handicapped individuals protected under the Federal Fair~~
7 ~~Housing Amendments Act and RCW 35A.63.240.~~ The term “family” shall also include any
8 number of handicapped individuals living together in a single housekeeping unit who are
9 protected by the provisions of the Federal Fair Housing Act and the Washington Housing Policy
10 Act. “Handicap” shall be as defined in the Federal Fair Housing Act, 42 U.S.C. 3602(h) and
11 RCW 35A.63.240.

12
13 **Group care facility:** living quarters for children or adults meeting applicable Federal and State
14 standards that function as a single housekeeping unit and provide supporting services, including
15 but not limited to counseling, rehabilitation, and medical supervision, not exceeding more than
16 20 residents and staff. If staffed by nonresident staff, each 24 staff hours per day equals 1 full-
17 time residing staff member for purposes of determining number of staff. Living quarters for
18 unrelated, handicapped individuals protected under the Federal Fair Housing Amendments Act
19 and RCW 35A.63.240 shall not be considered a group care facility.

20
21 **Substantial improvement:** any ~~remodel~~rehabilitation, addition, or other improvement of a
22 building when the cost of which as calculated cumulatively with any previous improvements the
23 ~~improvement~~ equals or exceeds 50% of the market value of the building before start of
24 construction of the improvement. The term includes buildings which have incurred substantial
25 ~~damage or damage~~ of any origin sustained by a building when the cost of restoring the building
26 to its pre-damaged condition as calculated cumulatively with any previous restoration would
27 equal or exceed 50% of the market value before the damage occurred. The costs of any such
28 improvements or restorations shall be calculated cumulatively with any other activity occurring
29 during the previous 10 years and the total of all improvements or repairs shall not exceed 50% of
30 the market value of the building as established in the first year of the 10 year period. Substantial
31 improvement does not include any project for improvement of a building to correct existing
32 violations of State or local health, sanitary or safety code specifications which have been
33 previously identified by the local code enforcement official and which are the minimum
34 necessary to assure safe living conditions.

35
36 **14.06 Permit Procedures**

37 **14.06.045 Lot certification.**

- 38 (1) Lot certification shall be the administrative review process completed to determine whether
39 a lot is legally created and, therefore, eligible for conveyance and whether or not the lot
40 will be considered for development permits, as follows:
- 41 (a) No change.
 - 42 (b) Development. If a lot of record is certified under Subsection (1)(a) of this Section, the
43 County shall also determine whether or not the lot of record will be considered for
44 development permits. To be considered for development permits, the lot of record must

1 be available for development purposes, and either meet the minimum lot size
2 requirements of the zoning district in which it is located, or, if the lot of record does not
3 meet the minimum lot size requirements of the zoning district in which it is located (a
4 “substandard lot of record”), it must meet 1 or more of the exemptions identified in SCC
5 14.16.850(4)(c). Lots restricted from development by prior County decision or action
6 (i.e. plat notes, open space designation, or other means) shall not be considered for
7 development purposes regardless of lot size.

8 (2) - (8) No change.

9 **14.06.050 Application Level.**

10 (1) Applications for development permits and other administrative determinations shall be
11 categorized as 1 of 4 levels as follows; provided, that shoreline applications shall be
12 processed as described in the Skagit County Shoreline Management Master Program:

13 (a) Level I. Level I applications are those applications for which a final decision is made by
14 the applicable Administrative Staff, either the Director of Public Works or his/her
15 designee, or the Director of Planning and Development Services or his/her designee,
16 without a public hearing. That decision may then be appealed in an open record appeal
17 hearing to the Hearing Examiner. The Hearing Examiner decision may then be appealed
18 in a closed record appeal to the Board. Actions reviewable as Level I applications
19 include:

20 (i) – (xiv) No change.

21 (xv) Notice and orders to abate.

22 ~~(xvi)(xv)~~ Other actions authorized by SCC Title 14.

23 (b) No change.

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

31 (i) Level III-HE.

32 (A) Board of County Commissioners’ variances pursuant to SCC 14.10.020(2) and
33 14.16.860, Agricultural land preservation.

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

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

39 (D) ~~Recommendations on development~~ Development agreements of more than 50
40 lots or residential dwelling units or more than 50,000 square feet of commercial
41 or industrial building space.

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

43 (ii) Level III-PC.

44 (A) ~~Review of preliminary long subdivisions containing more than 50 lots, tracts or~~
45 ~~parcels on contiguous land under the same ownership pursuant to Chapter 14.18~~
46 ~~SCC.~~

1 (B) ~~Review of binding site plans that contain more than 50 lots, tracts, parcels or~~
2 ~~units pursuant to Chapter 14.18 SCC.~~

3 (C) ~~Recommendations on development agreements of more than 50 lots or~~
4 ~~residential dwelling units or more than 50,000 square feet of commercial or~~
5 ~~industrial building space.~~

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

7 (d) No change.

8 **14.06.150 Public notice requirements.**

9 (1) No change.

10 (2) Notice of Development Application Requirements.

11 (a) Exemption. A Notice of Development Application pursuant to this Section shall not be
12 required for:

13 (i) – (iv) No change.

14 ~~(v) Forest practice conversions.~~

15 ~~(vi) Conversion option harvest plans.~~

16 (b) – (e) No change.

17 **14.08 Legislative Actions**

18 **14.08.020 Petition for amendments to the Comprehensive Plan/rezones.**

19 (1) Comprehensive Plan amendments consist of three (3)~~2~~ types: policy amendments, ~~and~~ map
20 ~~amendments not associated with Urban Growth Area boundary modifications, and map~~
21 ~~amendments proposing modification of an Urban Growth Area boundary. Comprehensive~~
22 ~~Plan amendments associated with the modification of an Urban Growth Area boundary shall~~
23 ~~be referred to as UGA modification proposals. Rezones shall be processed in conjunction~~
24 ~~with map amendments with the exception of rezones of those lands located within an urban~~
25 ~~growth area.~~

26 (2) Comprehensive Plan policy amendments or map amendments, excluding UGA modification
27 proposals, may be initiated by the County or by other entities, organizations, or individuals.
28 Written petitions for Comprehensive Plan amendments are required to be filed with the
29 Department by all parties other than the County. Petitions for UGA modifications shall only
30 be accepted from the affected jurisdiction (city/town for municipal UGA, tribe for tribal
31 UGA, Skagit County for Bayview Ridge UGA). ~~through petitions filed with the Department~~
32 ~~by the following dates:~~

33 (a) ~~On or before the last business day of July of each year, except when the proposal is to~~
34 ~~modify a municipal urban growth area boundary; or~~

35 (b) ~~When a Comprehensive Plan/Zoning Map amendment is proposed to modify a~~
36 ~~municipal urban growth area boundary, then the amendment petitions must be submitted~~
37 ~~to the Department by the last business day of March. The Department shall forward a~~
38 ~~copy of the amendment petition to the relevant municipality for their review. The~~
39 ~~municipality must respond in writing to the Department, by the last business day of July,~~
40 ~~with a recommendation for modification, approval, or denial. Such a recommendation~~
41 ~~must include appropriate findings of fact and conclusions in support of the~~
42 ~~recommendation, and in particular, how the recommendation conforms to the criteria set~~
43 ~~forth in Subsection (5)(b) of this Section.~~

1 (3) Petitions for Comprehensive Plan amendments and/or rezones, excluding UGA modification
2 proposals, must be submitted on or before the last business day of July (see subsection (5)
3 below for UGA modification proposal timing requirements). County initiated rezone and/or
4 Comprehensive Plan amendment proposals shall not be subject to the July submittal
5 deadline. All ~~Proposed rezones and~~ amendments to the Comprehensive Plan shall be
6 considered ~~on an annual basis (no more frequently than once per year),~~ according to the
7 schedule provided in this Chapter so that the cumulative effect of all ~~proposaled~~
8 ~~amendments~~ may be considered; provided, however, the County may adopt amendments
9 more frequently than once per year if the proposal is related to current use taxation, if the
10 proposal is the initial adoption of a subarea plan or functional plan provided that no
11 modifications of the Comprehensive Plan polices or zoning designations are proposed, if the
12 amendment is to the County's Shoreline Master Program under the procedures set forth in
13 Chapter 90.58 RCW, if the amendment is to the capital facilities element that occurs
14 concurrently with the adoption or amendment of the County budget, if an ~~declared~~
15 emergency exists, or to resolve an appeal of a Comprehensive Plan filed with a growth
16 management hearings board or with the court. ~~in response to a court order or an order of the~~
17 ~~Growth Management Hearings Board.~~ An emergency amendment may only be adopted if the
18 Board finds that the amendment is necessary to address an immediate situation of Federal,
19 State, subarea, or County-wide concern as opposed to a personal emergency on the part of
20 the applicant or property owner and the situation cannot adequately be addressed by waiting
21 until the annual Comprehensive Plan amendment process. Comprehensive Plan amendments
22 and/or rezones will only be considered once in every seven (7) year period for any given
23 property. The seven (7) year review period shall begin the year immediately following the
24 County's completion of its GMA mandated seven (7) year update of its Comprehensive Plan.
25 If a change in circumstance exists, which has been deemed sufficient by the Board, the
26 County may elect to re-review a prior or revised proposal. In no case, even in separate seven
27 (7) year periods, shall a proposal on the same property be reviewed in consecutive years.

28 (4) Submittal requirements for Comprehensive Plan policy and map amendments.

29 (a) A petition for a policy amendment shall include, at a minimum, the following
30 information:

31 (i)(a) A detailed statement of what is proposed to be changed and why.

32 (ii)(b) A statement of anticipated impacts to be caused by the change, including
33 geographic area affected and issues presented.

34 (iii)(c) A demonstration of why existing Comprehensive Plan policies should not
35 continue to be in effect or why existing policies no longer apply.

36 (iv)(d) A statement of how the amendment complies with the Comprehensive Plan's
37 community vision statements, goals, objectives, and policy directives.

38 (v)(e) A statement of how adopted functional plans and Capital Facilities Plans support
39 the change.

40 (vi)(f) A statement of how the change affects implementing development regulations
41 SCC Title 14 and the necessary changes to bring the implementing development
42 regulations into compliance with the plan.

43 (vii)(g) A summary of any public review of the recommended change.

44 (b)(5) A petition for a map amendment shall include, at a minimum, all of the requirements
45 for a policy amendment, plus the following additions:

- 1 (i)(a) A detailed statement describing how the map amendment complies with
 2 Comprehensive Plan land use designation criteria.
- 3 (ii)(b) Any proposed urban growth area boundary changes shall be supported by and
 4 dependent on population forecasts and allocated urban population distributions, existing
 5 urban densities and infill opportunities, phasing and availability of adequate services,
 6 proximity to designated natural resource lands and the presence of critical areas.
- 7 (iii)(c) Any proposed rural areas and natural resource land map designation changes shall be
 8 supported by and dependent on population forecasts and allocated non-urban population
 9 distributions, existing rural area and natural resource land densities and infill
 10 opportunities.
- 11 (iv)(d) Any proposed natural resource land map designation changes shall recognize that
 12 natural resource land designations were intended to be long-term designations and shall
 13 further be dependent on 1 or more of the following:
- 14 (A)(i) A change in circumstances pertaining to the Comprehensive Plan or public policy.
 15 (B)(ii) A change in circumstances beyond the control of the landowner pertaining to the
 16 subject property.
- 17 (C)(iii) An error in initial designation.
 18 (D)(iv) New information on natural resource land or critical area status.
- 19 (5) Each UGA boundary may be considered for modification once in every seven (7) year period.
 20 The seven (7) year review period shall begin the year immediately following the County's
 21 completion of its GMA mandated seven (7) year update of its Comprehensive Plan.
- 22 (a) The County may change adopted UGA boundaries more frequently than once in every
 23 seven (7) year period when one or more of the following conditions are met:
- 24 (i) The boundary adjustment is necessary to make minor technical corrections to a UGA
 25 boundary due to a mapping error or to be more consistent with identifiable physical
 26 boundaries such as natural features, roads, or special purpose districts. Minor
 27 boundary adjustments shall not increase the buildable land development capacity by
 28 more than 1 percent within the affected UGA.
- 29 (ii) The boundary adjustment is the result of an emergency comprehensive plan
 30 amendment by the affected jurisdiction in accordance with RCW 36.70A.130(2)(b).
- 31 (iii) The boundary adjustment is necessary to comply with changes to state or federal
 32 laws, regulations or standards.
- 33 (iv) When required as part of a compliance order from the Western Washington Growth
 34 Management Hearings Board or court of higher authority.
- 35 (v) The boundary adjustment will permanently preserve a substantial land area containing
 36 one or more significant natural or cultural feature(s) as open space and will provide
 37 separation between urban and rural areas. Provided that the boundary adjustment does
 38 not result in a significant increase to population or employment capacity. The
 39 presence of significant natural or cultural features shall be determined by the
 40 respective legislative bodies of the county and the municipality or municipalities
 41 immediately adjacent to the proposed expansion, and may include, but are not limited
 42 to, landforms, rivers, bodies of water, historic properties, archaeological resources,
 43 unique wildlife habitat, and fish and wildlife conservation areas.
- 44 (vi) There is less than 50% remaining of the vacant and buildable land base (residential,
 45 commercial, or industrial, respectively) that was designated within the incorporated
 46 and unincorporated areas of the particular UGA based on the last residential

- 1 population and/or commercial/industrial land sub-allocation, or through any
2 subsequent expansion of the UGA boundaries; or
- 3 (vii) The Board may waive the requirement in subsection (vi) above upon finding that:
- 4 A) The request has been formally reviewed and endorsed by the impacted
5 jurisdiction; and
- 6 B) The inability to reach the fifty percent (50%) threshold is accounted for either by
7 1) a small number of parcels within the UGA which account for a significant
8 portion of remaining buildable lands for which it can be clearly demonstrated that
9 they are not likely to develop in the planning horizon of the existing boundary; 2)
10 an assessment that concludes there is a deficiency of larger parcels within that
11 UGA to accommodate the remaining commercial or industrial growth projected
12 for that UGA; or 3) other documented local circumstances that relate to the land
13 market factors relevant to UGA expansion or reduction; and/or
- 14 C) The expansion will allow the development of a school, K-12, public or private,
15 provided that the expansion area is adjacent to an existing UGA and will be
16 designated and zoned exclusively for that use and will not add any residential,
17 commercial or industrial capacity to the affected UGA.
- 18 (b) All UGA modifications shall be subject to the following requirements:
- 19 (i) UGA boundary adjustments shall be consistent with the requirements of the Skagit
20 County Comprehensive Plan.
- 21 (ii) Sufficient land area must be included in the UGAs to accommodate the adopted 20-
22 year population and employment forecast allocation as adopted by the SCOG and
23 consistent with OFM projections. The extent of a UGA boundary expansion shall be
24 that necessary to provide a minimum ten (10) and a maximum twenty (20) year
25 supply of vacant and buildable lands within the UGA.
- 26 (iii) A jurisdiction, as part of its comprehensive plan amendment that proposes an
27 expansion of its UGA to accommodate additional population or employment
28 capacity, shall conduct planning and analysis sufficient to update and confirm the
29 development capacity analysis for buildable land within the existing UGA for
30 residential, commercial, and/or industrial lands, which takes into account all
31 development approved within the overall UGA since the last UGA expansion.
32 Minimum requirements for UGA buildable lands development capacity analyses shall
33 include the following steps:
- 34 (A) Define vacant and underutilized (but likely to redevelop) parcels by zone
35 (B) Deduct from the gross land capacity by zone – identified in (A) above – the
36 following lands not available to accommodate future population or
37 employment:
38 (1) critical areas (and buffers as appropriate)
39 (2) future roads/rights-of-way needs
40 (3) future public or quasi-public facilities needs
41 (4) remaining lands likely to be held off-the-market (e.g., market or other
42 factors)
- 43 (C) Apply the minimum (or average achieved) density or intensity of use in each
44 zone to the remaining net developable acres identified in (B) above.

- 1 (D) Apply appropriate household size and/or employee land intensity standards
2 to the output – identified in (C) above – to determine total UGA population
3 or employment capacity.
- 4 (iv) Document consistency of the proposed UGA expansion with Countywide Planning
5 Policy 1.1 and the adopted 20-year population and employment allocation, including
6 identification of any allocated but undesignated forecast population or employment.
- 7 (v) Preparation of a comparative evaluation of potential areas for UGA expansion,
8 including: 1) planning and zoning regulations currently in place; 2) an evaluation of
9 how a full range of urban-level infrastructure and services would be provided within
10 potential expansion areas, including appropriate capital facility analysis; and 3) an
11 evaluation of reasonable alternatives, other than expanding the UGA, to
12 accommodate the forecast UGA population or employment allocation. This shall
13 include consideration of development regulation amendments to allow for increased
14 densities and intensities of use in the existing UGA. Consideration of reasonable
15 alternatives to UGA expansion shall be within the discretion afforded to local
16 governments by RCW 36.70A.110 (2) to make choices about accommodating growth.
- 17 (vi) Document the proposed UGA expansion for consistency with any applicable inter-
18 local agreement between the affected municipality and the county.
- 19 (vii) Review the planning and zoning regulations and any incentive programs in place
20 to determine expected densities in the existing UGA consistent with the GMA, as
21 interpreted by the Growth Management Hearings Board, and the adopted
22 Comprehensive Plan.
- 23 (viii) In evaluating potential changes to a particular UGA boundary, the county shall
24 consider countywide implications for other UGAs and their population and
25 employment sub-allocations.
- 26 (ix) In cases of residential lands proposed for inclusion within a UGA, annexation or
27 incorporation should be encouraged to occur if immediately feasible, or an interlocal
28 agreement shall be executed between the municipality and county regarding the
29 timing and conditions of future annexation and provision of urban services.
- 30 (x) The UGA expansion shall not include areas that are designated as natural resource
31 lands (agricultural, forest, or rural resource) unless:
32 (A) the jurisdiction has an adopted transfer of development rights program in place
33 and an agreement with the property owner(s) that will allow for continuation of
34 the natural resource land activities on said lands following UGA designation; or
35 (B) said lands have been re-designated to an appropriate non-resource land use
36 designation consistent with the applicable provisions of the Skagit County
37 Comprehensive Plan, Skagit County Code, and RCW 36.70A.
- 38 (xi) The county and cities shall conduct early and continuous public involvement when
39 establishing, expanding, or adjusting UGAs, and shall do so jointly when appropriate.
40 Residents and property owners of unincorporated areas shall be consulted and
41 actively involved in the process affecting them.
- 42 (xii) The county shall exercise its best efforts to coordinate UGA boundary change
43 proposals with the affected municipality(ies), including the preparation of joint staff
44 recommendations where possible. Unless waived by the affected municipality(ies),
45 such municipality(ies) shall be given at least sixty (60) days notice of the proposal
46 prior to a county hearing thereon.

1 (6)(7) The petition for a Comprehensive Plan policy or map amendment and/or rezone shall be
2 on forms provided by the Department and shall contain suggested amendatory language,
3 where appropriate. If the proposed amendment is a site-specific amendment that applies to a
4 specific number of parcels which are in readily identifiable ownership ~~and~~ is in
5 conjunction with an identifiable development proposal, then the petitioner shall pay a fee
6 with the petition as prescribed by the approved fee schedule as now or hereafter amended.
7 (Ord. O20070009 (part); Ord. O20030023; Ord. 17938 Attch. F (part), 2000)

8 (7)(6) Rezones.

9 (a) All rezones shall be processed ~~in conjunction together~~ with a corresponding
10 Comprehensive Plan amendments, ~~with the exception of rezones of those lands located~~
11 ~~within an urban growth area.~~ except that rezones located wholly within an existing UGA
12 and contemplating no UGA boundary modification shall be considered to stand alone
13 and shall not require a corresponding Comprehensive Plan amendment. The procedures
14 for a stand-alone rezone application, notice, schedule, etc., shall follow those for the
15 Comprehensive Plan amendments/rezones in Subsection (2) – (6) of this Section.

16 (b) Petitions for rezones, including those processed in conjunction with a Comprehensive
17 Plan amendment, shall include at a minimum, all of the requirements for policy and map
18 amendments, plus the following additions:

19 (i) - (ii) No change.

20 (c) Approval Criteria for Rezones.

21 (i) - (ii) No change.

22 (iii) All Comprehensive Plan amendments/rezones to a commercial or industrial zone
23 ~~may~~ shall require a development project be commenced for the entire
24 redesignated/rezoned area within 2 years of the redesignation/rezone, unless
25 development is phased. For the purposes of this Section, “commenced” shall mean
26 either (A) a commercial or industrial operation permitted by the
27 redesignation/rezone has been established or (B) a complete building permit has
28 been filed with Planning and Development Services for the principal building which
29 will allow the commercial or industrial operation. Upon building permit approval,
30 the principal building shall be completed (i.e., final inspections completed) within 3
31 years. Those ~~properties or portions of properties~~ the redesignated/rezoned property
32 to a non-municipal UGA commercial or industrial zone shall be reviewed by the
33 County in the year following each 7-year update. ~~which are not included within the~~
34 ~~development area and~~ For those properties where the above time frames are not met
35 the County shall automatically consider such property for a County-initiated
36 redesignation/rezone to revert the property to the original designation and zoning,
37 unless a phasing plan is approved pursuant to Subsections (6)(c)(iii)(A) and (B) of
38 this Section. Commercial and industrial zoning is not intended for speculative
39 purposes. Removal of the commercial or industrial zoning designation should occur
40 on properties not meeting the above time frames unless it can be shown that a
41 specific project is imminent on the subject property given reasonable additional
42 time. For purposes of this Subsection, “development area” shall mean all portions
43 of the site needed to meet UDC permit and development regulation requirements,
44 such as lot coverage and setbacks.

45 (A) - (C) No change.

- (iv) In addition to the requirements listed above, Comprehensive Plan amendments/rezones for new Small-Scale Recreation and Tourism designations shall include a site plan of the wholly new or expanding recreational or tourist use that shall:
 - (A) Designate the location of all uses.
 - (B) Demonstrate that the location of the Small-Scale Recreational or Tourist uses is based upon the scenic and/or natural features of the land that support the need for a rural location and setting.
 - (C) Demonstrate that the proposed expansion of an existing recreational or tourist use is a logical expansion and is compatible with existing uses on the site.
 - (D) Include measures to protect or minimize adverse impacts on prime soils, drainage, traffic generation, visual impact, noise, and other relevant criteria, and to preserve the existing rural character of the area.
 - (E) Include measures to insure the protection of critical areas, as provided in RCW 36.70A.060, frequently flooded areas, and surface water and ground water resources including sole source aquifers.
 - (F) Include measures to ensure protection from conflicts with the use of agriculture, forest, and mineral resource lands of long-term commercial significance designated under RCW 36.70A.170.
 - (G) Include measures to protect or mitigate adverse impacts on Rural Intermediate, Urban Growth Areas, or Rural Village Residential-designated lands.

(d) No change.

14.08.030 Initiation of review of amendments to the Comprehensive Plan.

- (1) No change.
- (2) ~~Within 45 days from the last business day of July of each year, t~~The Department shall review all new petitions for Comprehensive Plan amendments, any petitions deferred from the docket of amendments for the previous year, together with any new amendments suggested by the Department, and shall forward a recommendation to the Board as to which of the petitions the Department recommends for inclusion in the current year’s docket of amendments, requiring further consideration by the County.
- (3) In making its docket recommendation the Department shall consider whether:
 - (a) - (b) No change.
 - (c) A proposed amendment raises policy, land use, or scheduling issues that would more appropriately be addressed as part of an ongoing or planned work program, or as part of a regular review cycle; ~~or~~
 - (d) Some legal or procedural flaw of the proposal would prevent its legal implementation; ~~or~~
 - (e) The proposal lacks sufficient information and/or adequate detail to review and assess whether or not the proposal meets the applicable Comprehensive Plan designation criteria.
 - (i) A determination that the proposal contains sufficient information and adequate detail for the purpose of docketing does not preclude the Department from requesting additional information at any time necessary later in the process.
- (4) ~~Within 30 days of~~ Following receipt of the Department’s docket recommendation, the Board shall hold a public hearing to allow applicants and the general public to comment on the Department’s recommendation. During its next available public meeting, the Board shall

1 consider the Department's recommendation and public testimony and decide which petitions
2 will be reviewed further as part of the annual docket.

3 (a) - (b) No change.

- 4 (5) Those petitions forwarded for further review shall be processed according to the remaining
5 sections of this Chapter, including public review and comment and Planning Commission
6 recommendation. Final action by the Board shall be taken to approve, approve with
7 conditions, defer to a subsequent amendment cycle, or deny each petition. (Ord. O20070009
8 (part): Ord. 17938 Attch. F (part), 2000)

9 **14.08.040 Environmental review.**

- 10 (1) After the Board establishes the current year's docket of Comprehensive Plan amendments,
11 the County shall complete environmental review of all of the proposed amendments,
12 consistent with the requirements of Chapter 43.21C RCW and Chapter 14.12 SCC, SEPA.
13 For any site-specific Comprehensive Plan amendments, the proponent of those amendments
14 shall submit a complete environmental checklist to the County. ~~within 20 days of the~~
15 ~~Board's decision to consider the proposed site-specific amendment.~~ SEPA fees shall be in
16 accordance with SCC 14.12.270.
17 (2) ~~Within 15 days from~~ After receipt and review of the environmental checklist(s) for the
18 proposed Comprehensive Plan amendments, the Department shall issue a threshold
19 determination(s) on the docket of amendments. ~~If necessary, a Draft Environmental Impact~~
20 ~~Statement (DEIS) should be published no later than the first business day of April of the year~~
21 ~~following the submitted petition.~~
22 (3) Any environmental review shall consolidate, as much as practical, site-specific SEPA review
23 with review of the entire docket of proposed Comprehensive Plan amendments to ensure
24 adequate consideration of cumulative effects of the proposed amendments. ~~SEPA fees shall~~
25 ~~be in accordance with SCC 14.12.270.~~
26 (4) No change.

27 **14.08.050 Adoption of community (subarea) plans, functional plans, and Shoreline Master**
28 **Program amendments and review of open space current use applications.**

- 29 (1) Initial adoption of a subarea plan or a functional plan shall not be subject to the once-per-
30 year batching requirements or decision of the Board to initiate review requirements
31 described in SCC 14.08.020 and 14.08.030, but shall be subject to the review procedures and
32 requirements contained in the balance of this Chapter.
33 (a) Periodically~~Once each year~~, Planning and Development Services may shall request that
34 the Board review and prioritize the list of remaining community plans.
35 (b) - (e) No change.
36 (2) No change.
37 (3) ~~Open space current use applications requiring review pursuant to a Comprehensive Plan~~
38 ~~amendment process under Chapter 14.40 SCC are not subject to the 1-year batching~~
39 ~~requirement. Open space current use applications do not result in a Comprehensive Plan~~
40 ~~change. (Ord. O20070009 (part); Ord. 17938 Attch. F (part), 2000)~~

41 **14.08.070 Public participation requirements.**

- 42 (1) - (2) No change.
43 (3) A CAC or TAC may be initiated by 1 of the following methods:
44 (a) The Board may establish one by resolution; or

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

5 (4) No change.

6 (5) No change.

7 (6) A ~~Skagit County Planning and Development Services or other~~ County staff person will be
8 assigned to each CAC and TAC, and will provide staff support and maintain a copy of the
9 record minutes of such committee or subcommittee ~~meeting on file at Skagit County~~
10 ~~Planning and Development Services.~~

11 (7) - (9) No change.

12 (10) Public Notification—Site-Specific Comprehensive Plan/Zoning Map Amendments. Where
13 public notice is otherwise required by this Chapter, for site-specific legislative proposals,
14 such notice shall be mailed directly to the owners of the affected properties, and to all
15 property owners within 300 feet of the subject property. (~~Ord. O20070009 (part): Ord. 17938~~
16 ~~Attch. F (part), 2000)~~

17 (11) Public Participation—In addition to public notice as otherwise required by this chapter, the
18 public shall have the opportunity to participate in County legislative matters via public
19 hearing(s), written comment, and other forums as appropriate. (Ord. O20070009 (part): Ord.
20 17938 Attch. F (part), 2000)

21 **14.08.080 Review by Planning Commission.**

22 (1) ~~After completion of any review by a Citizen’s Advisory Committee or Technical Advisory~~
23 ~~Committee as provided in the Skagit County Growth Management Act Public Participation~~
24 ~~Program, as amended, Prior to Planning Commission review, the Department shall prepare a~~
25 ~~staff report on the any proposed plans, amendments or development regulation summarizing~~
26 ~~the comments and recommendations of any Citizen Advisory Committee or Technical~~
27 ~~Advisory Committee as provided in the Skagit County Growth Management Act Public~~
28 ~~Participation Program as amended, County departments, affected agencies and special~~
29 ~~districts, and evaluating the proposed plan, plan amendment, or development regulations’~~
30 ~~consistency with adopted County plans and regulations. The staff report shall include~~
31 ~~findings, conclusions and proposed recommendations for disposition of the proposed plan,~~
32 ~~plan amendments or development regulations. The staff report, together with proposed drafts~~
33 ~~of the plan, plan amendment or development regulation, shall be available to the public a~~
34 ~~minimum of 15 calendar days before a public hearing on the proposed plan, plan~~
35 ~~amendment, or development regulation.~~

36 (2) Unless adopted as an interim ordinance under the provisions of RCW 36.70A.390, the
37 Commission shall hold at least one (1) public hearing on a proposed plan, plan amendment
38 or development regulation at the beginning of its deliberations prior to forwarding a
39 recommendation to the Board for action, ~~and may hold more than 1 hearing, if deemed~~
40 ~~necessary.~~

41 (3) No change.

42 (4) ~~If, after t~~The Commission’s shall consideration of the public comments and deliberation on
43 the proposed plan, plan amendment or development regulation. At theAs a completion of its
44 deliberations, the Commission shall vote to recommend adopting, not adopting or amending
45 the proposed plan, plan amendments or development regulation. , the Commission is
46 considering a recommendation that is substantially different from that for which public

1 comment was last received, the Commission shall provide an opportunity for additional
2 public comment (orally, or in writing, or both), and shall consider such comment before
3 making its recommendation to the Board, unless deadlines imposed by orders of the Growth
4 Management Hearings Board or by the Board when sending the proposed plan, plan
5 amendment or development regulation to the Commission for review prevent such additional
6 comment period. In that case, the Commission shall forward its recommendation to the
7 Board without additional public comment, provided the findings of the Commission clearly
8 state that the recommendation has changed from that for which public comment was taken
9 and the recommendation includes a suggestion that the Board take additional public
10 comment before making its decision. For purposes of this Section, an additional opportunity
11 for public comment is not required if:

12 (a) ~~An environmental impact statement (EIS) has been prepared under Chapter 43.21C~~
13 ~~RCW for the pending resolution or ordinance and the proposed change is within the~~
14 ~~range of alternatives considered in the environmental impact statement;~~

15 (b) ~~The proposed change is within the scope of the alternatives available for public~~
16 ~~comment;~~

17 (c) ~~The proposed change only corrects typographical errors, corrects cross references,~~
18 ~~makes address or name changes, or clarifies language of a proposed ordinance or~~
19 ~~resolution without changing its effect;~~

20 (d) ~~The proposed change is to a resolution or ordinance making a capital budget decision as~~
21 ~~provided in RCW 36.70A.120; or~~

22 (e) ~~The proposed change is to a resolution or ordinance enacting a moratorium or interim~~
23 ~~control adopted under RCW 36.70A.390.~~

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

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

38 (7) – (9) No change.

39 **14.08.090 Review and decisions by Board.**

40 (1) Upon receipt of a recommendation on all or any part of a plan, plan amendment or
41 development regulation from the Planning Commission, the Board shall, at its next regular
42 public meeting, set the date for a public meeting where it will consider and take action on the
43 recommendation.

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

- 1 (a) Provided that that the plan, plan amendment, or development regulation desired by the
2 Board conforms substantially to the proposal as originally initiated and made available
3 for public comment, the Board may take final action with no further process. For
4 purposes of this Section, an additional opportunity for public comment is not required if:
5 (i) An environmental impact statement (EIS) has been prepared under Chapter
6 43.21C RCW for the pending resolution or ordinance and the proposed change is within
7 the range of alternatives considered in the environmental impact statement;
8 (ii) The proposed change is within the scope of the alternatives available for public
9 comment;
10 (iii) The proposed change only corrects typographical errors, corrects cross-references,
11 makes address or name changes, or clarifies language of a proposed ordinance or
12 resolution without changing its effect;
13 (iv) The proposed change is to a resolution or ordinance making a capital budget
14 decision as provided in RCW 36.70A.120; or
15 (v) The proposed change is to a resolution or ordinance enacting a moratorium or
16 interim control adopted under RCW 36.70A.390.
17 (b) In cases where a recommendation for adoption includes a substantial change to the
18 proposal, and the Board desires to consider the change, the Board shall allow additional
19 public comment opportunity prior to final action. The Board may choose any one (1) or
20 more of the following options to provide such opportunity:
21 (i) Board initiation of an additional written public comment period with Board review
22 of public comments;
23 (ii) Board initiation of one or more public hearings;
24 (iii) Remand of issue(s) to the Department or the Planning Commission for additional
25 work, study, review, or refinement;
26 (iv) Remand of issue(s) to the Planning Commission for an additional written public
27 comment period;
28 (v) Remand of issue(s) to the Planning Commission for additional public hearing(s)
29 and recommendations.
30 (3) If the Board authorizes further public comment and consideration consistent with the
31 procedures for changes to plans, plan amendments, or development regulations as described
32 in Subsection (2)(b) of this Section, notice as required in SCC 14.08.080(3) shall be
33 provided. If the Board chooses not to remand an issue, it shall adopt its own findings of fact
34 and a statement setting forth the factors considered in the public comment or at the hearing
35 and its own analysis of findings considered by it to be controlling.
36 ~~(4)~~(3) If the Board does not agree, either in whole or in part, with ~~considers a change in the~~
37 ~~recommendation of the Planning Commission on a proposed plan, plan amendment, or~~
38 ~~development regulation to be necessary, the Board shall proceed as follows:~~
39 (a) Provided that the plan, plan amendment, or development regulation desired by the Board
40 conforms to the proposal as initiated and made available for public comment, the Board may
41 take final action with no further process.
42 ~~(a) Changes to Plans or Plan Amendments. Before acting on a proposed change to a plan or~~
43 ~~plan amendment, the Board must first refer the proposed change back to the Planning~~
44 ~~Commission for a report and recommendation. The Commission shall follow the public~~
45 ~~notice and hearing requirements for consideration of such change as required for the initial~~
46 ~~Commission review of the proposal. The Board may set a deadline for receipt of the~~

1 Commission recommendation. After receipt of the report and recommendation of the
2 Commission, or after lapse of the time frame specified by the Board, the Board may approve
3 the plan, without further reference to the Commission, provided:

4 (i) ~~That the plan or plan amendment conforms either to the proposal as initiated by the~~
5 ~~Board or the recommendation by the Planning Commission; and/or~~

6 (ii) ~~If the Planning Commission has failed to report within a 90-day period, the Board~~
7 ~~shall hold at least 1 public hearing on the proposed plan or plan amendment. Public~~
8 ~~notice for such hearing shall be the same as that required for public hearings before~~
9 ~~the Commission, described in SCC 14.08.080(3). Thereafter, the Board may proceed~~
10 ~~to approve the proposed plan or plan amendment.~~

11 (b) In cases where the Board desires to retain the status quo and reject any or all changes in
12 their entirety, the Board may take final action with no further process.

13 (b) ~~Changes to Development Regulations. Before acting on a proposed change to a~~
14 ~~development regulation recommended by the Planning Commission, the Board shall~~
15 ~~either refer the proposed change back to the Commission for further public comment and~~
16 ~~consideration consistent with the procedures for changes to plans or plan amendments~~
17 ~~described in Subsection (3)(a) of this Section, or the Board shall conduct its own public~~
18 ~~hearing, giving notice as required in SCC 14.08.080(3), and adopt its own findings of~~
19 ~~fact and a statement setting forth the factors considered at the hearing and its own~~
20 ~~analysis of findings considered by it to be controlling.~~

21 (c) In cases where the Board wishes to consider a substantial change to the proposal the
22 Board shall allow additional public comment opportunity prior to final action. The
23 Board may choose any one (1) or more of the following options to provide such
24 opportunity:

25 (i) Board initiation of an additional written public comment period with Board review
26 of public comments;

27 (ii) Board initiation of one or more public hearings;

28 (iii) Remand of issue(s) to the Department or the Planning Commission for additional
29 work, study, review, or refinement;

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

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

34 (4) ~~Final Disposition of Annual Docket. The Board must take action on the current year's docket~~
35 ~~on or before establishing a subsequent docket the last business day of July. The Board's~~
36 ~~decision, or failure to make a decision by the above date, to either approve, deny, or defer~~
37 ~~action on, plans or plan amendments terminates that year's docket. Upon termination of the~~
38 ~~current docket, a Initiation of any new docket(s) must be established as required in SCC~~
39 ~~14.08.030.~~

40 (5) The Board may defer action on any specific plan or plan amendment to a future docket if:

41 (a) – (b) No change.

42 (c) Approval of the proposal depends on the implementation of other rules, standards or
43 policies that either do not exist, or are not official by the time the Board is ready to make
44 its decision on the annual docket. (Ord. O20070009 (part); Ord. 17938 Attech. F (part);
45 2000)

1 (d) The Board determines that the proposed plan or plan amendment is more appropriately
2 considered during a subsequent amendment process. (Ord. O20070009 (part): Ord.
3 17938 Attch. F (part), 2000)
4

5 **14.12 SEPA**

6 **14.12.210 Appeals.**

7 Skagit County establishes the following administrative appeal procedures under RCW
8 43.21C.075 and WAC 197-11-680:

9 (1) A final environmental threshold determination for a project proposal is administratively
10 appealable as a Level I decision, pursuant to Chapter 14.06 SCC, provided that the decision
11 of the Hearing Examiner shall be a final decision and no further administrative appeals shall
12 be available. No administrative appeals of threshold determinations relating to legislative or
13 non-project actions shall be available. Otherwise, appeals shall be allowed consistent with
14 Chapter 43.21C RCW.

15 (2) - (5) No change.
16

17 **14.16 Zoning**

18 **14.16.160 Natural Resource Industrial (NRI).**

19 (1) No change.

20 (2) No change.

21 (3) Accessory Uses. The following uses are an accessory use to a permitted or special use. All
22 accessory uses may only be used to serve the on-site primary permitted natural resource
23 industrial use:

24 (a) - (c) No change.

25 (d) Outdoor storage of materials in quantities equal to or less than 50 cubic yards that may
26 have a potential health hazard (for example, animal carcasses). Does not include storage
27 of hazardous materials.

28 (e) Outdoor storage of processed and unprocessed natural materials in quantities equal to or
29 less than 500 cubic yards that do not have a potential health hazard.

30 (d) – (h) No change. [*note to code publisher: please renumber remainder of section as*
31 *appropriate*]

32 (4) – (8) No change.
33

34 **14.16.400 Agricultural – Natural Resource Lands**

35 (1) – (5) No change.

36 (6) Siting Criteria. In addition to the dimensional standards described in Subsection (5) of this
37 Section, new, non-agricultural structures shall be required to comply with the following
38 provisions:

39 (a) - (b) No change.

40 (c) When compatible structures exist on the subject property or adjacent properties, siting of
41 new structures shall comply with the following prioritized techniques:

42 (i) - (ii) No change.

43 (iii) When the provisions of Subsection (6)(c)(i) or (6)(c)(ii) of this Section are not
44 possible, site new structure(s) to achieve minimum distance from any existing

1 compatible structure on either the subject property or an adjacent property. All
2 development, including but not limited to, structures, parking areas, driveways,
3 septic systems, wells, and landscaping, shall be contained within an area of no more
4 than one (1) acre.

5 (7) No change.

6 **14.16.900 Special use permit requirements.**

7 (1) Special Uses.

8 (a) - (b) No change.

9 (c) Approved special uses identifiable through the Departments permit tracking system shall
10 be shown on the official zoning mapped upon request.

11 (d) No change.

12 (2) - (3) No change.

14 **14.18 Land Divisions**

15 **14.18.000 General.**

16 (1) - (4) No change.

17 (5) General Requirements. The following requirements shall be met for any land division under
18 this Chapter to be approved. In addition to these general requirements, any specific
19 requirements relevant to each individual type of land division are found in their respective
20 sections of this Chapter.

21 (a) - (g) No change.

22 (h) The proposal shall be located within an official designated boundary of a Skagit County
23 Fire Protection District, unless the division is to divide land for sale only and no
24 development right is desired. In the case of Industrial Forest-NRL, Secondary Forest-
25 NRL and Rural Resource NRL zoned lands, parcels must have been within the
26 boundaries of a fire district as of July 26, 2005, to be considered for development
27 additional to that which is allowed pursuant to 14.16.850(6)(b)(iii). The one exception is
28 for land divisions for residential purposes on certain saltwater islands, as further
29 described and allowed under SCC 14.16.850(6)(b)(iv). Prior to approval of any
30 residential land division outside of a Skagit County Fire District, there shall be a water
31 supply to each lot that meets the minimum flow and pressure requirements for operation
32 of a fire sprinkler system installed per National Fire Protection Association (NFPA) 13D
33 or such other fire protection system as approved by the Skagit County Fire Marshal.

34 (i) - (n) No change.

35 (6) - (10) No change.

37 **14.24 Critical Areas Ordinance**

38 **14.24.520 Fish and wildlife habitat conservation area site assessment requirements and**
39 **management plans.**

40 (1) Any project within 200 feet of a fish and wildlife habitat conservation area requires a fish
41 and wildlife HCA site assessment. In addition to the requirements of SCC 14.24.080, the
42 following shall be included in the site assessment:

1 (a)(1) An analysis of the functions and values analysis of the critical area(s), that which
2 includes but is not limited to a discussion of water quality/quantity and fish and wildlife
3 habitat; and

4 (b)(2) An analysis of the riparian buffer areas above the ordinary high water mark including
5 the following five functions identified in 14.24.530(1)(a)(i):

6 (i)(a) Recruitment of large woody debris (LWD) to the stream;

7 (ii)(b) Shade;

8 (iii)(c) Bank integrity (root reinforcement);

9 (iv)(d) Runoff filtration;

10 (v)(e) Wildlife habitat.

11 (2) If the Administrative Official determines that an activity may have an adverse effect on any
12 fish and wildlife habitat conservation areas, including habitats and species of local
13 importance, the applicant must implement a habitat management plan as set forth in the site
14 assessment requirements in SCC 14.24.080 and this Section.(Ord. 17938 Attch. F (part),
15 2000)

16 (a)(3) Bald eagle habitats shall be protected pursuant to the Washington State Bald Eagle
17 Protection Rules (WAC 232-12-292), as revised; a cooperative habitat management plan
18 shall be developed in coordination with the Department of Fish and Wildlife whenever
19 activities that alter habitat are proposed near a verified nest territory or communal roost.
20 (Ord. 17938 Attch. F (part), 2000)

21 ~~(4) All other fish and wildlife habitat conservation areas, including habitats and species of local~~
22 ~~importance, shall be protected on a case by case basis by means of a habitat management~~
23 ~~plan based on the Washington State Priority Habitat and Species (PHS) program, as set forth~~
24 ~~in the site assessment requirements in SCC 14.24.080 and this Section.(Ord. 17938 Attch. F~~
25 ~~(part), 2000)~~

26 **14.24.530 Fish and wildlife habitat conservation area protection standards.**

27 (1) Riparian Buffers. Riparian buffers apply only to streams and rivers.

28 (a) Intent of Riparian Buffers. The intent of riparian buffers is to protect the following five
29 basic riparian forest functions that influence in-stream and near-stream habitat quality:

30 (i) Recruitment of large woody debris (LWD) to the stream: LWD creates habitat
31 structures necessary to maintain salmon/trout and other aquatic organisms
32 productive capacity and species diversity.

33 (ii) Shade: Shading by the forest canopy maintains cooler water temperatures and
34 influences the availability of oxygen for salmon/trout and other aquatic organisms.

35 (iii) Bank integrity (root reinforcement): Bank integrity helps maintain habitat quality
36 and water quality by reducing bank erosion and creating habitat structure and in-
37 stream hiding cover for salmon/trout and other aquatic organisms.

38 (iv) Runoff filtration: Filtration of nutrients and sediments in runoff (surface and
39 shallow subsurface flows) helps maintain water quality.

40 (v) Wildlife habitat: Functional wildlife habitat for riparian-dependent species is based
41 on sufficient amounts of riparian vegetation to provide protection for nesting and
42 feeding.

43 (b)(4) Standard Riparian Buffers Measurement. Riparian buffer areas shall be measured
44 horizontally in a landward direction from the ordinary high water mark. Where lands
45 adjacent to a riparian area display a continuous slope of 25% or greater, the buffer shall
46 include such sloping areas. Where the horizontal distance of the sloping area is greater

1 than the required standard buffer, the buffer shall be extended to a point 25 feet beyond
 2 the top of the bank of the sloping area. Riparian areas do not extend beyond the toe of the
 3 slope on the landward side of existing dikes or levees within established dike districts
 4 along the Skagit and Samish Rivers.

5 (c) Standard Riparian Buffer Widths. Riparian areas have the following standard buffer
 6 widthsrequirements:

DNR Water Type	Riparian Buffer
S	200 feet
F > 5 feet wide*	150 feet
F □ 5 feet wide*	100 feet
Np	50 feet
Ns	50 feet

*Bankfull width of the defined channel (WAC 222-16-010).

7
 8 (2) Lake and marine shoreline Buffers. Lake and marine shoreline areas have the following
 9 standard buffers widths, based on ~~will be determined by~~ the shoreline area designations as
 10 defined inby the Shoreline Master Program (~~Chapter SCC14.26 SCC~~). ~~Shoreline areas have~~
 11 ~~the following standard buffer requirements:~~
 12
 13

Shoreline Area Designations	Shoreline Buffer
Natural	200 feet
Conservancy	150 feet
Rural	100 feet
Rural Residential	100 feet
Urban	140 feet

14
 15 (4)(3) Where a buffer has been previously established after June 13, 1996, through a County
 16 development review and is permanently recorded on title or placed within a separate tract or
 17 easement, the buffer shall be as previously established. Additional review may be requested
 18 by the applicant or required by the Administrative Official to determine whether or not
 19 conditions on site have changed resulting in the previously established buffer no longer
 20 being applicable.

21 (5)(4) Where a legally established and constructed public roadway transects a riparian buffer,
 22 the Department may approve a modification of the standard buffer width to the edge of the
 23 roadway, provided:

24 (a) – (c) No change.
 25

26 **14.34 Flood Damage Prevention**

1 **14.34.190 Standards for development activities in floodways.**

2 Located within areas of special flood hazard established in SCC 14.34.050 are areas
3 designated as floodways. Since the floodway is an extremely hazardous area due to the velocity
4 of floodwater that carries debris, potential projectiles, and erosion potential, the following
5 provisions apply:

6 (1) No change.

7 (2) Prohibit construction or reconstruction, repair or replacement of residential structures except
8 for:

9 (a) Repairs, reconstruction, or improvements to a structure which do not increase the ground
10 floor area; ~~and provided the cost of such reconstruction, repair, or improvement shall be~~
11 calculated cumulatively with any other activity occurring during the previous 10 years
12 and the total of all improvements or repairs shall not exceed 50% of the market value of
13 the structure as established in the first year of the 10 year period.

14 (b) Repair of a structure subsequent to sustaining damage of any origin when the cost of
15 restoring the structure to its pre-damaged condition as calculated cumulatively with any
16 other activity occurring during the previous 10 years and the total of all improvements
17 or repairs shall not exceed 50% of the market value of the structure as established in the
18 first year of the 10 year period and prior to the damage. Repairs, reconstruction, or
19 improvements to a structure the cost of which does not exceed 50% of the market value
20 of the structure either:

21 (i) Work done on structures to comply with existing health, sanitary, or safety codes
22 when determined by the Administrative Official, or to structures identified as
23 historic places, may be excluded in the 50% determination. Before the repair,
24 reconstruction, or improvement is started; or

25 (ii) ~~If the structure has been damaged and is being restored, before the damage occurred.~~
26 Work done on structures to comply with existing health, sanitary, or safety codes
27 when determined by the Administrative Official, or to structures identified as
28 historic places, may be excluded in the 50% determination.

29 (c) No change.

30 (3) - (4) No change.