

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator:	M. Engels	1/18/2008		2/12/2008	Introduction
Division Head:				2/26/2008	Council
Dept. Head:					
Prosecutor:	<i>KNF</i>	<i>1/23/08</i>			
Purchasing/Budget:					
Executive:					

TITLE OF DOCUMENT:

Ord amending WCC 20.92, Hearing Examiner, transcript, extension, hearings

ATTACHMENTS:

Ordinance and exhibit

SEPA review required? () Yes () NO	Should Clerk schedule a hearing ? () Yes (<input checked="" type="checkbox"/>) NO
SEPA review completed? () Yes () NO	Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: *(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)*

This ordinance amends WCC 20.92 to clarify the process for an appeal of a hearing examiner decision regarding the transcript, time extensions, oral argument, and open hearing.

COMMITTEE ACTION:

COUNCIL ACTION:

2/12/2008: Introduced
 2/26/2008: Council Adopted 7-0
 Ord. 2008-008

Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number: Ord. 2008-008

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.

SPONSORED BY: Consent

PROPOSED BY: Council Clerk

INTRODUCTION DATE: 2/12/2008

ORDINANCE NO. 2008-008


AMENDING WHATCOM COUNTY CODE 20.92, REGARDING WRITTEN ARGUMENT, ORAL ARGUMENT, TIME EXTENSION, AND TRANSCRIPTS FOR APPEALS TO COUNTY COUNCIL

WHEREAS, Whatcom County Code Section 20.92, provides a process for appealing decisions rendered by the Whatcom County Hearing Examiner, and;

WHEREAS, amendments to Whatcom County Code 20.92 are necessary to remove outdated text and to clarify rules governing the appeal process.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code Chapter 20.92 is hereby amended as indicted in Exhibit A to this ordinance.

ADOPTED this 26th day of Februrary, 2008.

ATTEST

Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


Carl Weimer, Council Chair

APPROVED AS TO FORM:

Approved () Denied


Karen Frakes, Civil Deputy Prosecutor


Pete Kremen, County Executive

EXHIBIT A

Chapter 20.92 HEARING EXAMINER

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20.92.850 Public hearing process for development agreements under Growth Management Act-

20.92.010 Purpose-

The purpose of this chapter is to provide a system of considering and applying regulatory devices which will best satisfy these three basic needs:

- (1) Need to separate the application of regulatory controls to the land from planning.
- (2) The need to better protect and promote the interest of the public and private elements of the community.
- (3) The need to expand the principles of fairness and due process in open record hearings. (Ord. 96-031 § 2, 1996).

20.92.100 Hearing examiner office-

20.92.110 Creation and purpose-

The office of hearing examiner is hereby created. The hearing examiner shall act on behalf of the county council in considering the application of regulatory enactments to particular situations as provided herein.

20.92.120 Pro tempore hearing examiner-

The pro tempore hearing examiner shall assist the hearing examiner in the performance of the duties conferred upon them by this chapter, and shall have all of the duties and powers of the hearing examiner. (Ord. 96-057, 1996).

20.92.130 No interference with the hearing examiner-

No county official or any other person shall interfere with the hearing examiner or pro tempore hearing examiner in the performance of his or her designated duties. (Ord. 96-057, 1996).

20.92.140 Qualifications-

The hearing examiner and his pro tempore shall be appointed solely with regard to their qualifications for the duties of their office, and shall have such training or experience as will qualify them to conduct administration of quasi-judicial hearings on the application of regulatory enactments and to discharge other functions conferred upon them, and shall hold no other

appointed or elected public office or position in the county government, except as provided in this ordinance. (Ord. 96-057).

20.92.150 Appointment and removal.

The hearing examiner shall be appointed by a majority vote of the county council. The hearing examiner may be removed from office at any time by an affirmative vote of not less than two-thirds of the members of the county council. (Ord. 84-24, 1984).

20.92.200 Hearing examiner – Duties and powers.

20.92.205 Recommended decisions.

The hearing examiner shall conduct an open record hearing and prepare a record thereof, and make recommendations to the county council for approval or disapproval of:

(1) Major project permits, including major project permit applications for mitigation banks proposed in accordance with the provisions of Chapter 16.16 WCC;

(2) Planned unit developments;

(3) Site-specific rezones, including those processed as major project permits, PUDs and/or concomitant rezones;

(4) Such other permits as may be required from the county along with subsection (1) or (2) of this section for a given project. Applications where a major project permit is required shall be processed as set forth in Chapter 20.88 WCC. Where the hearing examiner would normally make a final decision to approve or deny an accompanying permit, the decision shall instead be in the form of a recommendation and accompany the hearing examiner's recommendation on the major project permit or planned unit development to the county council for final approval.

(5) Proposed rates and charges or special assessments for lake management districts. (Ord. 2005-068 § 2, 2005; Ord. 2000-016 § 1, 2000; Ord. 99-081, 1999; Ord. 98-083 Exh. A § 64, 1998; Ord. 96-056 Att. A §§ A2, W1, 1996; Ord. 96-031 § 2, 1996; Ord. 92-011, 1992).

20.92.210 Final decisions.

The hearing examiner shall conduct open record hearings and prepare a record thereof, and make a final decision upon the following matters:

(1) Appeals from any orders, requirements, permits, decisions or determinations made by an administrative official or committee in the administration of this title, WCC Title 16, Environment, WCC Title 24, Health Regulations, or WCC Title 21, Land Division Regulations.

(2) Appeals from a decision of the administrator of the Shoreline Management Program.

(3) Applications for zoning ordinance conditional use permits.

(4) Applications for variances from the terms of the zoning ordinance.

(5) Applications for shoreline management substantial development permits not accompanied by a major project permit when an open record hearing is required.

(6) Applications for variances from the terms of the Whatcom County Shoreline Management Program.

(7) Applications for variances from the terms of Chapter 16.16 WCC, Critical Areas.

(8) Applications for reasonable use permits under the terms of Chapter 16.16 WCC when an open record hearing is required.

(9) Applications for Shoreline Management Program conditional use permits.

(10) Applications for flood damage prevention variances.

(11) Appeals from SEPA determinations of significance, determinations of nonsignificance, and mitigated determinations of nonsignificance.

(12) Preliminary subdivisions and subdivision variances.

(13) Preliminary binding site plan proposals.

(14) Application for variances from the provisions of WCC Title 22.

(15) Revocation proceedings involving previously approved zoning conditional use permits, shoreline management substantial project permits and shoreline conditional use permits.

(16) Applications to continue operations of nonconforming adult businesses pursuant to WCC 20.83.015.

(17) Appeals of decisions relating to water service issues under Section 9.2 of the Coordinated Water System Plan.

(18) Appeals from any orders, requirements, permits, decisions or determinations made by an administrative official relating to essential public facilities. (Ord. 2005-068 § 2, 2005; Ord. 2005-052 Exh. A, 2005; Ord. 2005-029 § 1 (Exh. A), 2005; Ord. 2004-014 § 2, 2004; Ord. 2002-071, 2002; Ord. 2000-056 § 2, 2000; Ord. 2000-039 § 1, 2000; Ord. 99-070 § 2, 1999; Ord. 99-045 § 1, 1999; Ord. 96-056 Att. A §§ A2, W2, 1996; Ord. 96-031 § 2, 1996; Ord. 88-104, 1988; Ord. 87-12, 1987; Ord. 87-11, 1987; Ord. 85-41, 1985).

20.92.211 Administrative appeals – Appeal period-

Appeals to the hearing examiner on the subjects listed in WCC 20.92.210(1) and (2) must be filed within 14 calendar days of the date of administrative determination. (Ord. 2000-056 § 2, 2000; Ord. 96-056 Att. A § W2, 1996).

20.92.215 Open record hearing notice-

Notice of the time and place of the open record hearing shall be given pursuant to WCC 2.33.060 and 2.33.070. (Ord. 96-031 § 2, 1996).

20.92.220 Open record hearing-

A project proposal subject to Chapter 2.33 WCC shall be provided with no more than one open record hearing and one closed record hearing pursuant to Chapter 36.70B RCW. This restriction does not apply to an appeal of a determination of significance as provided in RCW 43.21C.075. (Ord. 96-056 Att. A § W3, 1996; Ord. 96-031 § 2, 1996; Ord. 87-12, 1987; Ord. 87-11, 1987).

20.92.221 Combined county and agency hearing-

When requested by an applicant, the county shall allow an open record hearing to be combined with a hearing that may be necessary by another local, state, regional, federal or other agency for the same project if the joint hearing can be held within the time periods specified in Chapter 2.33 WCC, or if the applicant agrees to waive such time periods in the event additional time is needed in order to combine the hearings. The combined hearing shall be conducted in Whatcom County pursuant to Chapter 36.70B RCW. (Ord. 96-031 § 2, 1996).

20.92.225 Rules and regulations-

The hearing examiner shall have the power to prescribe rules and regulations for the conduct of hearings before him, subject to approval by the county council; and also to issue summons for and compel the appearance of witnesses, to administer oath and preserve order. The opportunity of cross-examination of witnesses shall be afforded all interested parties or their council in accordance with the rules of the hearing examiner.

20.92.230 Department reports-

The hearing examiner may request reports from appropriate staff. See WCC 2.33.080 for details. (Ord. 96-031 § 2, 1996).

20.92.235 Changes in legislation-

The hearing examiner may recommend changes in legislation to the planning department or county council.

20.92.240 Additional powers-

The hearing examiner may also exercise administrative powers and such other quasi-judicial powers as may be granted by the county ordinance.

20.92.245 Limited jurisdiction-

The hearing examiner shall, with the exception of site-specific rezones as provided for in WCC 20.90.063, have no jurisdiction over any project that requires a legislative action, such as but not limited to a standard map amendment, a Comprehensive Plan map change or a Shoreline Management Program amendment. All such projects shall be considered and processed concurrent with and in the same manner as applications for legislative action. The approval or denial of such projects shall be solely within the discretion of the county council. (Ord. 2000-016 § 1, 2000; Ord. 99-081, 1999; Ord. 98-083 Exh. A § 66, 1998).

20.92.250 Permit revocation procedure.

Upon notification by the zoning administrator or his deputy that a substantial violation of the terms and conditions of any previously granted zoning conditional use, shoreline substantial development or shoreline conditional use permit exists, the hearing examiner shall issue a summons as per WCC 20.92.225 to the permit holder requiring said permit holder to appear and show cause why revocation of the permit should not be ordered. Failure of the permit holder to respond may be deemed good cause for revocation. (Ord. 88-104, 1988).

20.92.255 Permit revocation hearing.

Upon issuance of a summons as set forth in WCC 20.92.250, the hearing examiner shall schedule an open record hearing to review the alleged violations. The summons shall include notice of the hearing and shall be sent to the permit holder and the land use division of planning and development services no less than 12 days prior to the date of the hearing. At the hearing the hearing examiner shall receive evidence of the alleged violations and the responses of the permit holder, as per the business rules of the hearing examiner's office. Testimony shall be limited to that of the division and the permit holder except where additional evidence would be of substantial value in determining if revocation should be ordered. The land use division's evidence may include the testimony of witnesses. (Ord. 96-031 § 2, 1996; Ord. 88-104, 1988).

20.92.260 Permit revocation or grace period.

Upon a showing of violation by a preponderance of the evidence as alleged, the hearing examiner may revoke the permit or allow the permit holder a reasonable period of time to cure the violation. If the violation is not cured within the time set by the hearing examiner, the permit shall be revoked. Where a time to cure the violation has been set out, no further hearing shall be necessary prior to the revocation. The permit holder shall have the burden of proving that the violation has been cured within the time limit previously set. Such evidence as is necessary to demonstrate that the violation has been cured may be submitted to the hearing examiner by either the permit holder or the land use division of planning and development services. Any revocation shall be accompanied by written findings of fact and conclusions of law. The permit holder shall be notified of any revocation within 10 working days of the revocation. (Ord. 88-104, 1988).

20.92.300 Recommended decisions to county council.

(Ord. 2000-016 § 1, 2000).

20.92.310 Recommended conditions.

The hearing examiner's recommendations may be to grant or deny any subdivision, major development or site-specific rezone application, or the hearing examiner may recommend that the county council approve the application with such conditions, modifications or restrictions as the hearing examiner finds necessary to make the application compatible with its environment; and carry out the objectives and goals of the Comprehensive Plan, the zoning code, the subdivision code, or any other official policies and objectives of Whatcom County. (Ord. 2000-016 § 1, 2000; Ord. 98-083 Exh. A § 66, 1998).

20.92.320 Recommended decision – Findings and conclusions.

Each recommended decision of the hearing examiner, for major developments, site-specific rezones and subdivisions, shall be in writing and shall include findings and conclusions, based upon the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision carries out and conforms to the county's Comprehensive Plan and complies with the applicable statutes, ordinances or regulations. (Ord. 2000-016 § 1, 2000; Ord. 98-083 Exh. A § 66, 1998).

20.92.330 Filing recommended decision-

Each recommended decision of the hearing examiner, for major developments, site-specific rezones and subdivisions, shall be filed with the clerk of the county council. For major project permits, a list of the parties of record as determined by the hearing examiner should be filed with the recommended decision. (Ord. 2000-016 § 1, 2000; Ord. 96-056 Att. A § A2, 1996).

20.92.400 Final decisions-

20.92.410 Final decision conditions – Applications and appeals-

The hearing examiner's final decision on all applications or appeals shall either grant or deny the application or appeal. The hearing examiner may grant the application or appeal subject to conditions, modifications or restrictions that the hearing examiner finds necessary to make the application compatible with its environment, and carry out the objectives and goals of the Comprehensive Plan, the zoning code, the subdivision code, the critical areas ordinance, or other official policies and objectives of Whatcom County. Performance bonds or other security, acceptable to the prosecuting attorney, may be required to ensure compliance with the conditions, modifications and restrictions. (Ord. 2005-068 § 2, 2005; Ord. 98-083 Exh. A § 66, 1998).

20.92.420 Final decision – Findings and conclusions-

Each final decision of the hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision.

20.92.430 Time limitation on decision-

Each final decision and recommended decision of the hearing examiner shall be rendered within 10 days following the conclusion of all testimony and hearings. (Ord. 96-031 § 2, 1996).

20.92.440 Review limited-

No final decision of the hearing examiner shall be subject to administrative or quasi-judicial review, except as provided herein.

20.92.500 Process for subdivision application and major project permits-

(Ord. 2000-016 § 1, 2000; Ord. 96-056 Att. A § A2, 1996).

20.92.510 Subdivisions-

The county council shall process each recommended decision for subdivisions, consistent with the procedure set forth in WCC Title 21. (Ord. 2000-056 § 2, 2000; Ord. 2000-016 § 1, 2000).

20.92.520 Major project permits-

The county council shall, upon receipt of the recommended decision on a major project permit, process that recommendation in the manner set forth in the major project permit chapter of this ordinance (Chapter 20.88 WCC). (Ord. 2000-016 § 1, 2000; Ord. 96-056 Att. A § A2, 1996).

20.92.530 Site-specific rezones-

The county council shall, upon receipt of the recommended decision on a site-specific rezone, process that recommendation in the manner set forth in Chapter 20.90 WCC, Amendments. (Ord. 2000-016 § 1, 2000).

20.92.600 Appeal to county council-

(Ord. 2000-043, 2000).

20.92.610 Applicant appeal-

The applicant, any party of record or any county department may appeal any final decision of the hearing examiner to the county council. The appellant shall file a written notice of appeal at the county council office within 10 business days of the final decision of the hearing examiner. Any parties of record from the hearing examiner's proceedings who wish to continue to be considered parties of record must register with the county council in writing no later than 10 days after the date of the notification of appeal letter which is sent from the hearing examiner's office. The notification of appeal letter will be sent from the hearing examiner's office within three working days of receiving written notification from the county council office that an appeal has been filed. (Ord. 2000-043, 2000; Ord. 95-033, 1995).

20.92.620 Fee-

A fee, as established in the Unified Fee Schedule, shall be paid to the county council office upon filing of any appeal. This fee shall not apply to appeals initiated by a county department. (Ord. 2000-043, 2000; Ord. 95-033, 1995; Ord. 87-41, 1987).

20.92.630 Transcript-

(1) The appellant shall make arrangements for the preparation of the transcript with the court reporter present at the hearing examiner's hearing and shall forward the transcript to the county council office within 30 days of filing the appeal. Upon request of the council office, the hearing examiner's office shall prepare and transmit to the council office the hearing examiner's file, together with exhibits.

(2) ~~A copy of the record of appeal shall be provided made available by the appellant to the county council office and copies shall be made available to parties on upon request at the cost to be fixed by~~ submitted to the county council office. (Ord. 2000-043, 2000; Ord. 96-043, 1996; Ord. 95-033, 1995).

20.92.640 Written argument-

(1) Within two working days after receipt of ~~either the transcript of the hearing conducted by the hearing examiner, a summary of facts, or an abridged transcript,~~ the county council office shall send a letter of notification to the appellant that a statement containing the appellant's basis for appeal and argument is due. The statement and argument, and a proof of service (affidavit of mailing) upon those parties who have registered with the county council, must be filed in writing, along with 10 copies, with the clerk of the county council within 15 calendar days after the postmark date of the letter of notification.

(2) Any argument or response by any ~~person or entity~~ registered party of record opposing the appeal must be filed in writing along with 10 copies, within 14 calendar days after the date of filing the appellant's argument with the council office. (Ord. 2000-043, 2000; Ord. 95-033, 1995; Ord. 87-33, 1987).

20.92.642 Time limits-

The county council will, on motion of a party, dismiss the appeal for failure of the appellant to abide by any of the time limits contained in WCC 20.92.600 through 20.92.640, unless an extension has been granted pursuant to WCC 20.92.645. (Ord. 2000-043, 2000).

20.92.645 Time extension-

Extensions of timelines established hereinabove may be granted by the council chair upon demonstration of good cause. Requests for extensions and proof of service (affidavit of mailing) upon those parties who have registered with the county council shall be presented to the clerk of the council in writing prior to the expiration of the pertinent time limit. Any registered party who wishes to object to the requested extension shall file a written objection with the council

office no later than two weeks following the council's receipt of the request.(Ord. 2000-043, 2000; Ord. 95-033, 1995).

20.92.650 Time limitation on county council-

Within 35 days after the filing of the ~~respondent's~~ opponents written arguments, the county council shall render a decision. Thereafter the county council will issue findings of fact and conclusions of law no later than 30 days following the decision. This time limitation shall not apply when a remand procedure is initiated. (Ord. 2000-043, 2000; Ord. 95-033, 1995).

20.92.660 Appeal on record-

The decision of the county council shall be based solely upon the record and the written argument that has been submitted by the parties. ~~Oral argument may be scheduled at the discretion of the county council.~~(Ord. 2000-043, 2000; Ord. 95-033, 1995).

20.92.700 Remand to hearing examiner-

(Ord. 2000-043, 2000).

20.92.710 Findings-

The county council may, within its discretion, remand the case back to the hearing examiner, if the council finds:

(1) That new evidence is available that could affect the outcome of the case and was not available at the first hearing.

(2) That the record, in whole or in part, is not sufficient for the council to make a reasoned decision on the appeal.

(3) That the decision of the hearing examiner should be reversed and that additional information is necessary before a final decision can be made. (Ord. 2000-043, 2000; Ord. 95-033, 1995).

20.92.720 Remand order-

The remand shall be in the form of a written order and shall state the specific areas to be considered by the hearing examiner at the remand hearing. The remand hearing shall be limited to the specific areas of concern stated in the remand order from the county council. (Ord. 2000-043, 2000; Ord. 95-033, 1995).

20.92.730 Notice of application and open record hearing-

~~Notice of application and notice of an open record~~the remand hearing shall take place consistent in accordance with WCC 2.33.060 and 2.33.070. (Ord. 2000-043, 2000; Ord. 96-031 § 2, 1996; Ord. 95-033, 1995).

20.92.740 Filing of information-

The hearing examiner shall file the information requested in the remand order with the clerk of the county council as soon as possible but not to exceed 15 business days from the date of the hearing. (Ord. 2000-043, 2000; Ord. 95-033, 1995).

20.92.750 Final decision of county council-

The county council shall, within 30 days of filing of the information from the remand hearing, issue their final written decision together with findings of fact and conclusions of law. (Ord. 2000-043, 2000; Ord. 95-033, 1995).

20.92.800 County council – Function in hearing examiner process-

(Ord. 2000-043, 2000).

20.92.810 Reversal of hearing examiner decisions-

The county council shall affirm the decision of the hearing examiner unless a majority of the entire county council finds that the decision of the hearing examiner is:

(1) Based upon an error of law; or

(2) Clearly erroneous on the entire record. (Ord. 2000-043, 2000; Ord. 95-033, 1995; Ord. 84-79, 1984).

20.92.820 Conditions-

The county council may, where their decision results in project approval, impose, modify or delete conditions upon the license, permit approval, variances or appeal, consistent with WCC 20.92.310, and may exercise the powers granted therein. (Ord. 2000-043, 2000; Ord. 95-033, 1995; Ord. 84-79, 1984).

20.92.825 Adult business appeals-

Appeals of administrative approval use permits for adult businesses shall be made directly to the county council and shall be subject to the following procedures:

(1) The applicant or any party of record may appeal an administrative approval use permit decision relating to an adult business to the county council.

(2) The appellant shall file a written notice of appeal at the county council office within 10 calendar days of the administrative approval use permit decision. A fee, as established in the Unified Fee Schedule for appeals to the county council, shall be paid to the county council office upon filing of any appeal.

(3) The county council office shall mail written notice to the administrative approval use permit applicant within five calendar days of receiving the appeal, if the appeal was not submitted by the applicant.

(4) The council office shall request the written record from planning and development services within five calendar days of receiving the appeal. The written record shall be forwarded by planning and development services within five calendar days of the request from the county council office.

(5) Within five calendar days after receipt of the appeal, the county council office shall send a letter of notification to the appellant that a statement containing the appellant's basis for appeal and argument is due. The statement and argument, and a proof of service (affidavit of mailing) upon the administrative approval use permit applicant (if different from the appellant), must be filed in writing, along with 10 copies, with the clerk of the county council within 10 calendar days after the postmark date of the letter of notification.

(6) An argument or response from the administrative approval use applicant (if different than the appellant) shall be filed in writing along with 10 copies, within 10 calendar days after the date of filing the appellant's argument with the council office.

(7) The county council shall decide the appeal and issue written findings of fact and conclusions of law within 40 calendar days of the date the appeal was filed.

(8) The county council shall affirm the decision of planning and development services unless a majority of the entire county council finds that the decision is:

- (a) Based upon an error of law; or
- (b) Clearly erroneous on the entire record.

(9) The county council may, where their decision results in project approval, impose, modify or delete conditions based solely on the criteria of WCC 20.84.235(7).

(10) The procedures of WCC 20.92.600, 20.92.700, 20.92.810 and 20.92.820 shall not apply to appeals relating to adult businesses. (Ord. 2001-038 § 2, 2001).

20.92.830 No interference with the county council-

No individual or county official shall interfere with or attempt to interfere with the individual councilmembers of the county council in the execution of the quasi-judicial duties they have assumed, pursuant to this chapter. (Ord. 2000-043, 2000; Ord. 95-033, 1995; Ord. 84-79, 1984).

20.92.840 Appeal of county council decision-

The decision of the county council shall be final unless appealed within 21 days of the issuance of the written decision, in the same manner as provided in RCW 36.70C.040. (Ord. 2000-043, 2000; Ord. 97-013, 1997; Ord. 95-033, 1995; Ord. 84-79, 1984).

20.92.850 Public hearing process for development agreements under Growth Management Act.

(1) The Whatcom County hearing examiner is designated to conduct the open record public hearing for development agreements as defined in the Growth Management Act, Chapter 36.70B RCW.

(2) The Whatcom County hearing examiner shall conduct an open record public hearing and prepare a record thereof, and make recommendation to the county council for approval or disapproval of development agreements as defined in the Growth Management Act, Chapter 36.70B RCW. (Res. 2007-008, 2007).