

SUPPLEMENT DIRECTIONS

WHATCOM COUNTY CODE

Supplement No. 53 – March 2008

Includes Ordinances through 2008-002 and Resolutions through 2008-006

New, reprinted pages included with this supplement are listed by title and page number in the right-hand column below. The left-hand column lists obsolete material which should be removed from the code. Follow the instruction columns in sequence: remove and replace pages as necessary.

When complete, insert these directions in a convenient place near the front of the code book. For future reference, the person making these changes may also date and initial this page.

This supplement includes ordinances and resolutions passed through January 29, 2008.

Remove these pages	Insert these pages
Table of Revised Pages	
i – vii	i – vii
Title 3	
21 – 22	21 – 22
Title 10	
19 – 20	19 – 20
46.5 – 46.6	46.5 – 46.6
Title 12	
7 – 10	7 – 10.2
Title 20	
1 – 2	1 – 2
30.3 – 30.6	30.3 – 30.6
67 – 72.4	67 – 72.4
119 – 120	118.1 – 120
Tables	
B-23	B-23 – B-24
C-27 – C-29	C-27 – C-29
Index	
24.1 – 24.2	24.1 – 24.2
43 – 46	43 – 46.2

Please call Code Publishing Company (206-527-6831) should questions arise while removing and replacing supplement pages.

Title 20

ZONING

Chapters:

- 20.04 General Provisions**
- 20.10 Comprehensive Plan Amendments**
- 20.13 Wireless Communication Facilities**
- 20.15 Commercial Mushroom Substrate Production Facilities**
- 20.20 Urban Residential (UR) District**
- 20.22 Urban Residential – Medium Density (URM) District**
- 20.24 Urban Residential – Mixed (UR-MX) District**
- 20.32 Residential Rural (RR) District**
- 20.34 Rural Residential-Island (RR-I) District**
- 20.35 Eliza Island (EI) District**
- 20.36 Rural (R) District**
- 20.37 Point Roberts Transitional Zone (TZ) District**
- 20.38 Agriculture Protection Overlay**
- 20.40 Agriculture (AG) District**
- 20.42 Rural Forestry (RF) District**
- 20.43 Commercial Forestry (CF) District**
- 20.44 Recreation and Open Space (ROS) District**
- 20.60 Neighborhood Commercial Center (NC) District**
- 20.61 Small Town Commercial (STC) District**
- 20.62 General Commercial (GC) District**
- 20.63 Tourist Commercial (TC) District**
- 20.64 Resort Commercial (RC) District**
- 20.65 Gateway Industrial (GI) District**
- 20.66 Light Impact Industrial (LII) District**
- 20.67 General Manufacturing (GM) District**
- 20.68 Heavy Impact Industrial (HII) District**
- 20.70 Airport Operations (AO) District**
- 20.71 Water Resource Protection Overlay District**
- 20.72 Point Roberts Special District**
- 20.73 Mineral Resource Lands Special District (MRL)**
- 20.74 Cherry Point Industrial (CP) District**
- 20.75 School Facility Impact Fees**
- 20.78 Transportation Concurrency Management**
- 20.80 Supplementary Requirements**
- 20.82 Public Utilities**
- 20.83 Nonconforming Uses and Parcels**
- 20.84 Variances, Conditional Uses, Administrative Approval Uses and Appeals**
- 20.85 Planned Unit Development (PUD)**
- 20.88 Major Project Permits**
- 20.89 Density Transfer Procedure**
- 20.90 Amendments**

- 20.92 Hearing Examiner**
- 20.94 Enforcement and Penalties**
- 20.95 Severability**
- 20.97 Definitions**

lots shall be grouped together in a single cluster. In all other cases, where practical, the majority of building sites should be arranged in a concentrated pattern to be compatible with physical site features, and have no more than two common encroachments on existing county roads. The arrangement of concentrated building lots is intended to discourage development forms commonly known as linear, straight-line or highway strip patterns. (Ord. 2007-048 § 2 Exh. B, 2007; Ord. 2004-021 § 1, 2004).

20.22.320 Reserve tract.

For the purposes of this section, "reserve tract" is defined as that portion of a proposed subdivision or short subdivision which is intended for forestry, open space or future development purposes. All reserve tracts created through the subdivision process shall be subject to the following provisions:

(1) After a site is initially subdivided pursuant to this chapter, the reserve tract may be retained by the subdivider, conveyed to residents of the subdivision or conveyed to a third party.

(2) The reserve tract may be considered as a building lot; provided, that it is included in the overall density calculation of the original parcel of record.

Within short-term planning areas where public water and sewer are not available and long-term planning areas, the reserve tract may be considered a building lot only under one of the following additional conditions:

(a) Residential construction and accessory structures are restricted to a building envelope that is delineated on the final plat or short plat. The building envelope shall:

(i) Be contiguous with the outside boundary of the clustered lots; and

(ii) Be entirely located 200 feet or less from the outside boundary of the clustered lots; and

(iii) Not exceed the maximum lot size for clustered lots in the zone.

(b) Residential construction and accessory structures are restricted to a building envelope that is delineated on the final plat or short plat. The building envelope shall:

(i) Be contiguous with an exterior property line of the original parcel of record; and

(ii) Be entirely located 200 feet or less from an exterior property line of the original parcel of record; and

(iii) Not exceed the maximum lot size for clustered lots in the zone.

(c) An existing residential use and accessory structures may be located anywhere on the reserve tract. Clustered lots shall be located adjacent to such existing residential use, unless the zoning administrator determines that:

(i) Because of physical circumstances applicable to the site, clustering adjacent to the existing residential use would hinder access to the reserve tract for future urban development; or

(ii) Protection of environmental features would be negatively impacted; or

(iii) Existing agricultural structures would be negatively impacted.

(3) The reserve tract may be further subdivided only through the long subdivision process and only under one of the following circumstances:

(a) The county finds that in developing adjacent tracts it would help to further the objectives listed in WCC 20.22.305 by dividing the reserve tract and increasing the area of reserve proportionately on the adjacent land being subdivided so that there is no net reduction in reserve area; and when the reserve tract is owned by the original developer or a third party, no property owner within the original subdivision will be significantly adversely affected or suffer a substantial decrease of property value as a result of dividing the reserve tract; or

(b) When the Comprehensive Plan and zoning have been updated as part of the normal process (other than a revision initiated by the private sector or done for a specific area) and the public process has been gone through, subject to findings that there is no adverse impact to critical areas and when the reserve tract is owned by the original developer or a third party, no property owner within the original subdivision will be significantly adversely affected or suffer a substantial decrease of property value as a result of dividing the reserve tract; or

(c) The site is within a short-term planning area and public water and sewer serve the proposed development on the reserve tract.

(4) For sites located within urban growth areas, wells, sewage disposal systems, and associated easements may be located on the reserve tract only if:

(a) The applicant demonstrates to the Whatcom County health department that there is not adequate space on the clustered lots for such facilities and/or easements; and

(b) A note is placed on the face of the plat stating that, prior to filing a final plat with the county auditor that divides the reserve tract for urban density development:

20.22.350

(i) Owners of clustered lots and the reserve tract shall hook up to public water and sewer; and

(ii) Easements and restrictive covenants for wells and/or sewage disposal systems on the reserve tract shall be extinguished, with health department approval; and

(iii) Wells on the reserve tract shall be decommissioned in accordance with Washington Department of Ecology regulations and sewage disposal systems on the reserve tract shall be abandoned.

The intent of this provision is to ensure that the reserve tract can be developed to its fullest potential, and such development will not be restricted by the existence of wells, sewage disposal facilities and easements associated with these facilities.

(5) The purpose of the reserve tract as stated in subsections (1), (2), (3) and (4) of this section shall be communicated in writing on the face of the plat or short plat. The number of developable building sites remaining (if any) with the original parcel of record, based on the assigned density, shall also be prominently displayed on the plat or short plat. Whatcom County shall make every effort to assist all agents in communicating clearly such information to all purchasers and prospective purchasers of building lots or reserve tracts.

(6) That the above stated requirements in subsections (2) through (5) of this section shall be recorded as a deed restriction at the time of filing of the final plat or short plat, and shall constitute an agreement between Whatcom County and the owner of record. Said deed restriction may be amended by mutual agreement between said parties after review for consistency and compliance with the Official Whatcom County Zoning Ordinance, the Whatcom County Subdivision Ordinance and the Whatcom County Comprehensive Plan. (Ord. 2007-048 § 2 Exh. B, 2007).*

*Prior legislative history: *Repealed by Ord. 2004-021.* (Ord. 98-083 Exh. A § 21, 1998; Ord. 90-45, 1990; Ord. 84-38, 1984).

20.22.350 Building setbacks.

Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback requirements). (Ord. 2004-021 § 1, 2004).

20.22.400 Height regulations.

Maximum height shall be limited to 45 feet. Height of structures shall also conform, where applicable, to the general requirements of WCC

20.80.675. (Ord. 2004-021 § 1, 2004; Ord. 85-70, 1985; Ord. 84-38, 1984).

20.22.450 Lot coverage.

No structure or combination of structures, including accessory buildings, shall occupy or cover more than 2,500 square feet or 35 percent, whichever is greater of the total area. (Ord. 2004-021 § 1, 2004; Ord. 88-29, 1988).

20.22.500 Open space.

(Ord. 2004-021 § 1, 2004).

20.22.501 Multifamily dwellings.

Multifamily dwellings shall maintain a minimum of 20 percent of the site free of buildings, structures, hard surfacing, parking areas and other impervious surfaces. (Ord. 2004-021 § 1, 2004; Ord. 2001-024 § 1, 2001; Ord. 87-12, 1987; Ord. 87-11, 1987).

20.22.502 Mobile home parks.

Mobile home parks shall maintain a minimum of 40 percent of the site free of buildings, structures, hard surfacing, parking areas and other impervious surfaces. (Ord. 2004-021 § 1, 2004; Ord. 2003-029 § 1 (Att. A § 12), 2003; Ord. 87-12, 1987; Ord. 87-11, 1987; Ord. 84-38, 1984).

20.22.550 Buffer area.

When parcels situated in this district adjoin an Urban Residential, Residential Rural or Rural District, and are developed for uses other than single-family dwellings or duplexes, any side or rear yard contiguous to those districts shall have their setbacks increased to 25 feet. Said area is to be landscaped consistent with the requirements of WCC 20.80.345. (Ord. 2004-021 § 1, 2004; Ord. 89-117, 1989).

20.22.600 Sign regulations.

Sign regulations shall be administered pursuant to WCC 20.80.400. (Ord. 2004-021 § 1, 2004).

20.22.650 Development criteria.

The requirements of WCC 20.22.651, 20.22.652, 20.22.653 and 20.22.654 do not apply to single-family or duplex residences. (Ord. 2004-021 § 1, 2004; Ord. 96-056 Att. A § A1, 1996).

20.22.651 Facility design.

(1) In the Bellingham Urban Growth Area, the city of Bellingham's design and development stan-

dards and guidelines shall apply (see WCC 20.22.665).

(2) All Developments. Each development shall screen roof mechanical equipment so as not to be visible by surrounding uses or roads.

(3) Conditional Uses. All conditional uses provided by WCC 20.22.150 shall be designed consistent with the scale of a project, to:

(a) Consider solar access and wind exposure;

(b) Provide coordinated landscape and architectural designs;

(c) Provide integrated circulation for pedestrians, vehicles and bicycles;

(d) Provide integrated circulation that complements the architectural design of the project, considers adjoining land use activities and meets adopted county standards;

(e) Provide integrated street and land use with appropriate sized roadways to meet anticipated traffic demands;

(f) Minimize ingress and egress points to arterials;

(g) Utilize valuable or unique natural features as part of the site design; and

(h) Accommodate physical constraints of a site.

(4) Duplexes and Multifamily Dwellings. All duplexes and multifamily dwelling uses shall be designed, consistent with the scale of the project, to:

(a) Encourage views from individual units towards parks, open space and other natural features;

(b) Discourage views from individual units towards other dwelling units;

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Chapter 20.42

RURAL FORESTRY (RF) DISTRICT¹

Sections:

- 20.42.010 Purpose.
- 20.42.050 Permitted uses.
- 20.42.100 Accessory uses.
- 20.42.130 Administrative approval uses.
- 20.42.150 Conditional uses.
- 20.42.200 Prohibited uses.
- 20.42.250 Minimum lot size and width.
- 20.42.251 Minimum lot size.
- 20.42.252 Maximum density and minimum lot size.
- 20.42.253 Minimum lot width and depth.
- 20.42.300 *Deleted.*
- 20.42.310 *Deleted.*
- 20.42.315 *Repealed.*
- 20.42.320 *Deleted.*
- 20.42.330 *Deleted.*
- 20.42.350 Building setbacks.
- 20.42.400 Height limitations.
- 20.42.450 Lot coverage.
- 20.42.550 Reforestation area.
- 20.42.650 Development criteria.
- 20.42.651 Plat language for proposed subdivisions.
- 20.42.652 Use of natural resources.
- 20.42.653 Landscaping.
- 20.42.654 Parking requirements.
- 20.42.655 Livestock regulations.
- 20.42.656 Domestic water supplies.
- 20.42.657 Drainage.
- 20.42.900 Conditional use permit criteria.

20.42.010 Purpose.

The purpose of this district is to implement the forestry designation of the Whatcom County Comprehensive Plan, established pursuant to RCW 36.70A.170, by providing the opportunity for non-industrial landowners to manage their land for long-term productivity, and sustained use of forest resources. In addition, the district encourages the management of land for wildlife, aesthetics, and other noncommodity values. It also provides for uses that are compatible with these activities, while maintaining water quality and soil productivity. Lummi Island Scenic Estates shall be administered under the RR-I zone district regulations. (Ord. 2007-064 Exh. A, 2007; Ord. 2005-079 § 1, 2005;

1. Code reviser's note: The amendments of Ord. 2007-064 expire June 1, 2008.

Ord. 2003-029 § 1 (Att. A § 6), 2003; Ord. 98-083 Exh. A § 66, 1998; Ord. 92-094, 1992; Ord. 91-023, 1991; Ord. 87-12, 1987; Ord. 87-11, 1987; Ord. 86-42, 1986).

20.42.050 Permitted uses.

Unless otherwise provided herein, permitted, accessory and conditional uses shall be administered pursuant to the applicable provisions of Chapter 20.80 WCC (Supplementary Requirements) and Chapter 20.84 WCC (Variances, Conditional Uses, Administrative Approval Uses and Appeals), the Whatcom County SEPA Ordinance, the Whatcom County Subdivision Ordinance and the Whatcom County Shoreline Management Program.

.051 The cultivation, harvest, and production of forest products or any forest crop, in accordance with the Forest Practice Act of 1974 and any regulations adopted pursuant thereto; and the cultivation, harvest and production of ferns, moss, boughs, bark, berries, nuts, tree fruits, tree seeds, nursery stock, and Christmas trees.

.052 Agriculture, floriculture, horticulture, bee-keeping; raising, keeping and feeding of domestic animals, poultry and livestock; and structures accessory to animal husbandry.

.053 Operation of sawmills, chippers, shake and shingle mills, scaling stations; log dumps, sorting and storage areas; forest industry equipment maintenance buildings and storage yards, and forest industry residue dumps and other uses involved in the harvesting and primary processing of timber; provided, that all such uses within 1,000 feet of any existing Residential or Commercial Zone District as well as the Recreation and Open Space (ROS) District, or park, or recreation area shall be temporary and of less than 12 months' duration.

(1) The intent of processing is initial reduction in bulk and/or to facilitate transport to secondary processing centers; and

(2) All uses within 1,000 feet of a park, recreation area or zone district other than Rural, Agriculture or Industrial shall be temporary and of less than 12 months' duration.

.054 The management and propagation of fish and wildlife.

.055 Watershed management practices including erosion control measures, drainage control

20.42.050

structures, vegetation management to improve run-off characteristics, weather stations, stream gauging stations, or watershed research facilities.

.056 One single-family dwelling per legal lot of record.

.057 Deleted by Ord. 2001-012.

.058 Surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW); provided, that administrative approval is required for accessory rock crushing activities located within 1,000 feet from a rural or residential district.

.059 Repealed by Ord. 2000-006.

.060 Living quarters for trail crews, fire crews, nursery crews, logging crews, maintenance crews and watchmen.

.061 Hydroelectric power generation facilities using only diversion structures creating impoundments less than three acres, and cogeneration facilities; provided, that the power shall be to serve and will be associated with a permitted or conditional use situated in the Forestry Zone District.

.062 Storage of explosives operated in compliance with Chapter 70.74 RCW.

.063 Trails, trailheads, restroom facilities and associated parking areas for no more than 30 vehicles.

.064 Temporary dwelling units which have full living accommodations including sleeping, self-contained cooking, bathing, and toilet facilities where the plumbing is connected to permanent site sewage and water systems, including those travel trailers and recreational vehicles that meet the above description, for use by owners during the period of construction of a permanent dwelling while building permit is valid, not to exceed two years.

.065 Private, noncommercial, recreation occupancy of a recreational vehicle; provided, that the following minimum requirements and standards are met and/or followed:

(1) Maximum length of stay of any recreational vehicle on a lot shall not exceed a total of 120 days per calendar year; provided, that no accessory guest RV shall remain on the subject lot for more

than 14 consecutive days nor more than 30 days total per calendar year.

(2) One recreational vehicle and one accessory guest RV per lot shall be allowed. If such lot is greater than five nominal acres, one additional guest RV may be allowed per each additional two acres of the subject lot. The total number of recreational vehicles on a single lot at one time shall not exceed five.

(3) In the case of a special event or occasion:

(a) Any proponent of a temporary special event which requires a total allowable number of RVs that exceeds the standard maximum allowed shall file an affidavit with the department of planning and development services which specifies the nature of the special event, location, specified days of the proposed use and the sanitation and wastewater disposal facilities proposed for the event.

(b) The duration of the temporary special event shall include the days the use is being set up and established as well as when the event actually takes place.

(c) A parcel shall host no more than three temporary special events within a calendar year; provided, that the time periods specified in subsection (1) of this section are not exceeded.

(4) All recreational vehicles that remain on the site for more than 14 consecutive days shall be connected to a permitted on-site sewage system or public sewer or shall provide documentation that wastewater was removed by a licensed sanitary disposal service.

(5) All recreational vehicles shall be screened from neighboring properties not using RVs and from public roads. Such screening may consist of landscaped buffer areas, suitable native vegetation or a fence.

(6) Lots shall not be leased or rented out on a daily or overnight basis for recreational use.

(7) The locations of parked RVs on vacant lots shall observe normal building setback standards for a single-family residence.

(8) All recreational vehicles shall be supported by their own wheels or camper jacks, and not be fastened to accessory structures. Placement of a recreational vehicle on a foundation or removal of the wheels of a recreational vehicle, except for temporary purposes for repair, is prohibited.

.066 Gravel bar scalping projects within the jurisdiction of the Shoreline Management Program.

.067 Light industrial/manufacturing uses that were legal under concomitant agreement filed

under Auditor File No. 940107190 (as revised under Auditor File No. _____) prior to the effective adoption date of the county's Comprehensive Plan, May 20, 1997, will be considered permitted uses. Expansion will be allowed as a permitted use but will be limited to the land area zoned Light Impact Industrial on May 20, 1997, and must comply with applicable conditions and with the requirements of the Light Impact Industrial Zone where there is conflict with the requirements of the Rural Forestry Zone.

.068 One one-story detached accessory storage building per lot; provided, that the floor area shall not exceed 200 square feet and shall only be used for personal storage and not for habitation or business; and provided further, that the storage building shall contain no indoor plumbing but may be served with electrical power for lighting.

.069 Public forest preserves, wildlife reserves, natural systems education, and/or interpretive areas.

.088 Adult family homes as defined in Chapter 70.128 RCW.

.089 Boarding homes that are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.090 Mental health facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district.

.091 Substance abuse facilities that provide residential treatment and are similar in size, facilities and occupancy to other residential structures permitted in the zoning district. (Ord. 2007-064 Exh. A, 2007; Ord. 2005-079 § 1, 2005; Ord. 2004-026 § 1, 2004; Ord. 2004-014 § 2, 2004; Ord. 2001-012 § 1, 2001; Ord. 2000-040 § 1, 2000; Ord. 2000-006 § 9, 2000; Ord. 99-062, 1999; Ord. 98-078 Exh. A, 1998; Ord. 97-069, 1997; Ord. 92-094, 1992; Ord. 92-079, 1992; Ord. 88-29, 1988; Ord. 87-23, 1987; Ord. 86-42, 1986).

20.42.100 Accessory uses.

.101 Utilization of sewage sludge on land when regulated by a utilization permit issued by the Bellingham-Whatcom County district department of public health in accordance with WAC 173-304-

300. This would apply to any land owned or leased by the same operator. Utilization of sludge in the Lake Whatcom watershed is not allowed.

.102 Uses incidental to the primary permitted uses.

.103 (1) The usual wholesale marketing activities associated with the agricultural, aquacultural, forestry, and mineral resource uses permitted in this district.

(2) Retail marketing, by the operator, of Whatcom County products which originate from the permitted uses stated in WCC 20.42.050; provided:

(a) Only one stand containing not more than 500 square feet of floor area shall be permitted;

(b) Such stand shall be subject to the setback requirements of WCC 20.80.200; and

(c) Such stand shall be provided with a sufficient area to permit at least five automobiles to park safely off the road right-of-way and to re-enter the traffic in a forward direction.

.104 On-site treatment and storage facilities for hazardous wastes associated with outright permitted uses or approved conditional uses subject to the most current siting criteria under Chapter 173-303 WAC. On-site treatment and storage facilities for hazardous wastes are not allowed in the Lake Whatcom watershed.

.105 Home occupations, when in compliance with the following:

(1) The occupation or profession shall be carried out wholly within the principal or accessory buildings; and

(2) Not more than two persons outside the immediate family shall be employed in the home occupation. (Ord. 2007-064 Exh. A, 2007; Ord. 2003-029 § 1 (Att. A § 13), 2003; Ord. 96-056 Att. A § J1, 1996; Ord. 92-094, 1992; Ord. 91-023, 1991; Ord. 89-10, 1989; Ord. 88-29, 1988; Ord. 87-84, 1987).

20.42.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC 20.84.235.

.131 A temporary second dwelling unit of no more than 1,248 square feet in floor area, in the form of a manufactured home, a fully serviced travel trailer or motor home, to provide:

(1) A temporary dwelling space for family members who, due to professionally documented physical or mental disorders, or risks of such disorders, require supervision and care where such care is provided by members of the family who reside on the property; or

(2) A temporary dwelling space for a person providing care for the resident owner of the subject property when said owner needs supervision and care as described in subsection (1) of this section.

Approval Requirements:

Administrative approval for temporary second dwelling units shall be approved if it is determined that the proposal meets the following requirements:

(1) Temporary second dwelling units shall only be permitted on fully serviced parcels on which the applicant can meet setback, ingress, egress, height restrictions, and lot coverage requirements.

(2) The size of the temporary dwelling shall be appropriate to the use and size of the parcel and shall be limited so as to comply with the standards set forth in subsection (1) of this section.

(3) The temporary home shall be connected to an approved water supply and adequate capacity sewage disposal system approved by the Whatcom County health department.

(4) When care is no longer necessary, the temporary home shall be removed within 60 days.

(5) The permit shall be valid for one year. The permit may be extended on a yearly basis; provided, that an affidavit is furnished by the permittee affirming that the circumstances allowing the original permit remain in effect.

(6) A covenant shall be filed that restricts sale of the property while the temporary dwelling is in place.

(7) The use will not be hazardous or disturbing to existing or future neighboring uses.

(8) Evidence of adequate off-street parking space shall be provided.

(9) There shall be no occupancy of the temporary dwelling outside the conditions under which the temporary dwelling is permitted pursuant to this section.

(10) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with current Washington Administrative Code (WAC).

Penalties: False statements on supporting documentation submitted with the application or failure to comply with any of the approval requirements may be cause for revocation of the permit and prosecution.

.132 Accessory apartments or detached accessory dwelling units to single-family dwellings; provided, that all of the following approval requirements are met:

(1) In addition to an existing or permitted dwelling, there shall be no more than one accessory apartment or detached accessory dwelling unit per lot;

(2) The owner(s) of the single-family lot upon which the accessory apartment or detached accessory dwelling unit is located shall occupy as their primary domicile at least one of the dwelling units on that lot;

(3) Proof that adequate provisions have been made for potable water, wastewater disposal, and stormwater runoff for the additional dwelling unit must be obtained prior to application for a building permit;

(4) There shall be only one front entrance to the house visible from the front yard and street for accessory apartments and only one additional entrance visible from the front yard for detached accessory dwelling units;

(5) Accessory apartments and detached accessory units shall be clearly a subordinate part of an existing residence;

(6) In no case shall an accessory apartment or detached dwelling unit be larger than 1,248 square feet in floor area;

(7) Long plats and short plats which are granted after January 25, 1994, shall be marked, specifically designating lots allowed to be developed with accessory apartments or detached accessory dwelling units at the option of the developer for future individual owners. Accessory apartments and detached accessory dwelling units shall be prohibited on:

(a) All lots in long plats which received preliminary plat approval after January 25, 1994, unless those lots have been specifically marked for such use through the long plat process;

(b) All lots within short plats which received approval after January 25, 1994, unless those lots have been specifically marked for such use through the short plat process;

(8) A common driveway serving both the existing unit and any accessory unit shall be used to the greatest extent possible;

(9) A deed restriction is recorded with the Whatcom County auditor prior to building permit issuance, stating:

(a) Detached accessory dwelling units and associated land cannot be sold separately from the original dwelling, except in the event the zoning permits such a land division; and

(b) One of the dwellings must be the primary domicile of the owner;

(10) Outside of an urban growth area, the minimum lot size for detached accessory units shall be 20 acres;

(11) Accessory apartments and detached accessory dwelling units to single-family dwellings are allowed within the Lake Whatcom watershed, only under the following circumstances:

(a) Development of the parcel with the primary residence and accessory apartment or detached accessory dwelling shall conform to the density of the zoning district in which it is located. Adjacent properties in the same ownership may be bound by covenant to comply with the underlying zoning density; and

(b) All of the above approval requirements shall be met for so long as the accessory unit remains;

(12) Detached accessory units shall be located closer to the primary unit than to any adjoining property line unless site constraints require location closer to the property line. If an accessory unit is located closer to an adjacent property line than to the primary dwelling or within 50 feet of an adjoining property, the applicant must provide a statement of nonobjection from the adjacent property owner and must screen the unit to minimize visual impacts;

(13) All mobile homes must demonstrate compliance with minimum HUD Fire Safety Standards and compliance with Washington Administrative Code (WAC).

.133 Surface mining subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), and accessory washing, sorting, and rock crushing, when within a Mineral Resource Land Special District subject to the requirements of Chapter 20.73 WCC and all other applicable regulations.

.135 Cottage industries employing no more than two people on-site, other than family members residing on the premises; provided, that in addition to the criteria found in WCC 20.84.220 and 20.97.087:

(1) The zoning administrator, at his or her discretion, may place limitations on the square footage in an existing or new structure used for a cottage industry and construction of new buildings to house said activity shall not, in any case, exceed 2,500 square feet of total floor area. The total land area used for buildings and outside storage or other uses related to the cottage industry shall not exceed

10,000 square feet or 25 percent of the site, whichever is less.

(2) The parcel size shall not be less than one acre.

(3) In the event materials will be stored outdoors, the zoning administrator shall require adequate landscaping, screening, or other devices in order that the material will not be visible by surrounding uses or roads.

(4) One nonilluminated sign, not to exceed 16 square feet in size, mounted on the property, is permitted. A larger sign up to 32 square feet may be approved by the hearing examiner as a conditional use.

(5) Seasonal employees working less than 21 days per year will not be counted as employees if they are engaged in work directly related to agriculture or forestry.

.136 Forestry related/wood based cottage industries which employ no more than 10 on-site people other than family members residing on the premises, including primary or low intensity secondary processing of timber not permitted in WCC 20.42.053, including fabrication of furniture and fixtures, partitions, shelves and lockers, manufacture, processing, treatment and fabrication of lumber, millwork, miscellaneous wood products, and other wooden building and roofing materials, excluding pulp, paper or plywood mills, conducted in structure(s) other than the dwelling unit; provided, that:

(1) The administrator, at his discretion, in consideration of the surrounding development patterns, property uses and size of the lot on which the proposed cottage industry is locating, may place limitations on the square footage used in an existing or new structure used for a cottage industry. The construction of new buildings to house said activity shall not, in any case, exceed 4,000 square feet of total floor area.

(2) The parcel must access from a collector arterial or higher standard street (this could include shared access).

(3) Minimum parcel size is one acre. Minimum lot size is five acres for buildings which exceed 2,500 square feet of total floor area and/or are constructed of materials which are not of similar materials or scale to a single-family residence.

(4) Minimum open space requirement is 40 percent. Adequate buffering is required for both visual screening and noise reduction and must comply with WCC 20.80.345. The administrator may modify the required buffer widths, either reduction or enlargement, on a site-specific basis. A finding

20.42.150

regarding the rationale for such modification will be entered into the record. Site development should maintain the existing natural vegetation to the greatest extent possible.

(5) All work is conducted within a building, except that uses which are complementary to the Rural Forestry District and which are determined to be harmonious with adjacent parcels may be allowed outdoors.

(6) In the event materials will be stored outdoors, the administrator may require adequate landscaping, screening or other devices in order that the material will not be visible by surrounding uses or roads.

(7) For parcels visible from a state scenic highway, the administrator shall, at his discretion, require additional measures or restrictions to protect scenic vistas.

(8) The operation of the business must comply with county/state noise, air quality and all other applicable regulations.

(9) There is no polluting or hazardous industrial discharge to a public sewer or septic system.

(10) One nonilluminated freestanding sign, visible from the road, and not exceeding six feet in height, may be permitted. One additional nonilluminated sign may be attached to the building for a maximum total signage of 16 square feet. No portion of any sign shall extend above the lowest portion of the roof.

(11) Not more than 10 nonfamily members not residing on the premises can be employed on site.

(12) An application packet shall be submitted on forms provided by county and must provide a site plan, drawn to scale, which shows the location of existing and proposed structures, includes dimensions of new and proposed structures to property lines, distance to adjacent structures, uses of adjacent parcels, existing vegetative cover and proposed modifications to vegetative cover of proposed site, location of permanent buffers and proposed plant materials for the permanent buffer, including species, sizes and spacing. (Ord. 2007-064 Exh. A, 2007; Ord. 2006-061 § 1 (Att. A)(7), 2006; Ord. 2005-079 § 1, 2005; Ord. 2001-012 § 1, 2001; Ord. 98-078 Exh. A, 1998; Ord. 98-018 § 1, 1998; Ord. 97-069, 1997).

20.42.150 Conditional uses.

The conditional uses listed herein shall be administered pursuant to the applicable provisions of Chapter 20.80 WCC (Supplementary Requirements) and Chapter 20.84 WCC (Variances, Conditional Uses, Administrative Approval Uses and Appeals), the Whatcom County SEPA Ordinance,

the Whatcom County Subdivision Ordinance and the Whatcom County Shoreline Management Program. Applicable conditional use permit criteria are established in the provisions of WCC 20.42.900 and will not be subject to the conditional use criteria provided for in WCC 20.84.220.

.151 Construction and operation of water diversion structures, impoundment dams and hydroelectric generating facilities not permitted under WCC 20.42.061.

.152 Bed and breakfast establishments.

.153 Surface mining, rock crushing, and accessory washing and sorting, subject to the conditions in WCC 20.36.159.

.154 Operation of indoor or outdoor parks and recreation facilities including camps, community centers, campgrounds, activity centers, marinas, riding academies, developed trailheads with more than 30 parking spaces and off-road vehicle parks; provided, that in the Lake Whatcom watershed riding academies, marinas, recreational vehicle and off-road vehicle parks are not allowed.

.155 The operation of facilities intended to provide education related to forestry, natural resources and wildlife and the purpose of this district, including but not limited to demonstration forests and conservation laboratories, educational meeting facilities and related uses including rental cabins or other lodging structures, cooking and dining facilities, retail sales or meeting supplies and gifts, in the Foothills Subarea, South Fork Valley, the Newhalem Exclave and the Baker Lake Exclave, provided the following standards are met:

(1) Density shall not exceed one sleeping unit per one gross acre or a maximum of 50 beds for the entire development.

(2) Each cabin shall have a maximum of three sleeping units.

(3) Must be located with vehicular access fronting on paved county roads or private roads improved to county standards.

(4) Front yard setback shall be 75 feet, with 100 feet side and rear yard setbacks to adjacent properties.

(5) Lot coverage for all facilities, including the rental cabins, shall not exceed 20 percent, clustered on no more than 50 percent of the property.

.156 Aircraft landing areas when solely for personal (aircraft based at those landing areas are

owned or controlled by the landowner or tenant and subject to any limitations deemed necessary by the hearing examiner) or forest management uses; provided the centerline of any such landing area shall not be located within 500 feet of any zone boundary other than a Commercial Forestry Zone, property line, building, or structure; except that a legal affidavit from adjacent property owner(s) allowing all, or a portion, of that 500 feet as a recorded easement on their property, presented as part of a conditional use permit application, shall be acceptable. The surface of any such landing area shall be grass or sod and not longer than 2,500 feet. It shall be unlighted and for daytime use only.

Handling and storage of fuel and bulk chemicals associated with forest management on or near the landing area, and fuels and lubricants associated with the operation of personal use aircraft, will be stored and handled in accordance with pertinent state and county codes. Notification of conditional use permit application hearing shall go, by first class mail, to residents within 1,000 feet from any point on a proposed aircraft landing area; the applicant shall pay the cost of such mailings.

.157 The operation of fur farms and kennels.

.158 Major utility and communication facilities.

.159 Primary or low intensity, secondary processing facilities of timber not permitted in WCC 20.42.053, including fabrication of furniture and fixtures, partitions, shelves and lockers, manufacture, processing, treatment and fabrication of lumber, millwork, miscellaneous wood products, and other wooden building, roofing and construction materials and building material yards, if screened by a fence and/or vegetation as specified in WCC 20.80.355; excluding pulp or paper mills. The conditional use provisions are applicable for proposals which include structures that exceed 4,000 square feet and employ more than 10 nonfamily members.

.162 Asphalt and concrete batch plants, when within an MRL Special District.

.163 The permanent alteration or removal of more than 20 percent of the lot area, excluding natural meadows, bogs, surface waters, and rock outcrops, from the production of forest products when not otherwise authorized by WCC 20.42.450.

.164 Cottage industries as defined by WCC 20.97.087, excluding those allowed in WCC 20.42.135, and which employ not more than four

people outside the family conducted in structure(s) other than the dwelling unit. Such activities will comply with all other provisions of WCC 20.36.161(1) through (5).

.165 Public facilities for emergency-related health and safety purposes, such as firehalls and Washington State Department of Transportation satellite road safety facilities.

.166 Shooting ranges.

.185 Type I solid waste handling facilities.

.186 Type II solid waste handling facilities.

.187 Mitigation banks as a form of compensatory mitigation for wetland and habitat conservation area impacts when permitted in accordance with the provisions of Chapter 16.16 WCC; provided, applications for mitigation banks shall be processed as a major development project pursuant to Chapter 20.88 WCC. (Ord. 2007-064 Exh. A, 2007; Ord. 2005-068 § 2, 2005; Ord. 2004-041 § 1, 2004; Ord. 2004-026 § 1, 2004; Ord. 2004-014 § 2, 2004; Ord. 2001-012 § 1, 2001; Ord. 2000-064 § 1, 2000; Ord. 99-031, 1999; Res. 99-010 Exh. A, 1999; Ord. 98-078 Exh. A, 1998; Ord. 97-069, 1997; Ord. 96-056 Att. A §§ J2, J3, 1996; Ord. 93-076, 1993; Ord. 92-094, 1992; Ord. 92-079, 1992; Ord. 91-013, 1991; Ord. 88-29, 1988; Ord. 86-42, 1986).

20.42.200 Prohibited uses.

.201 All other uses.

.202 Adult businesses. (Ord. 2007-064 Exh. A, 2007; Ord. 99-070 § 2, 1999; Ord. 92-094, 1992).

20.42.250 Minimum lot size and width.

20.42.251 Minimum lot size.

(1) For the purpose of creating new residential building lots within the Forestry District, one land use density is provided. The minimum lot size requirements for new residential construction shall be 20 nominal acres or 1/32 of a section.

(2) Divisions of land for nonresidential purposes shall have a minimum lot size of 20 acres. (Ord. 2007-064 Exh. A, 2007; Ord. 96-056 Att. A § J4, 1996; Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.252 Maximum density and minimum lot size.

Gross Density	Minimum Lot Size – Conventional
1 dwelling unit/20 acres	20 acres

(Ord. 2007-064 Exh. A, 2007; Ord. 92-096, 1992; Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.253 Minimum lot width and depth.

Width at Street Line – Conventional	Minimum Mean Depth
535'	100'

Width at Building Line – Conventional	Minimum Mean Depth
270'	100'

(Ord. 2007-064 Exh. A, 2007; Ord. 92-096, 1992; Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.300 Lot clustering and reserve tract.

Deleted by Ord. 2007-064.

20.42.310 Lot clustering.

Deleted by Ord. 2007-064. (Ord. 2006-045, 2006; Ord. 2000-056 § 2, 2000; Ord. 92-096, 1992; Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.315 Exempt cluster tract.

Repealed by Ords. 2005-079 and 2007-064. (Ord. 98-083 Exh. A § 66, 1998; Ord. 92-096, 1992).

20.42.320 Reserve tract.

Deleted by Ord. 2007-064. (Ord. 92-096, 1992; Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.330 Planned unit development.

Deleted by Ord. 96-056. (Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.350 Building setbacks.

Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback requirements). Building setbacks for parcels of less than five nominal acres shall be administered pursuant to WCC 20.80.256(4). (Ord. 2007-064 Exh. A, 2007; Ord. 2003-029 § 1 (Att. A § 2), 2003; Ord. 99-0080, 1999; Ord. 99-0058; Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.400 Height limitations.

No residential structures or buildings accessory thereto with the exception of barns and silos shall exceed a height of 35 feet. (Ord. 2007-064 Exh. A, 2007; Ord. 92-094, 1992).

20.42.450 Lot coverage.

No more than 20 percent of the lot area shall be permanently altered or removed from production of forest products, excluding natural meadows, bogs, surface water and rock outcrops, unless authorized as a conditional use or the planned unit development provision of Chapter 20.85 WCC, in which case, no structure or combination of structures, including accessory buildings, shall occupy or cover more than 35 percent of the lot. (Ord. 2007-064 Exh. A, 2007; Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.550 Reforestation area.

Upon completion of forest harvest operations, the highest priority for reforestation shall be given to that land within 100 feet of another zone district. Reforestation shall utilize seedlings or whips and shall be consistent with the Forest Practice Act of 1974, as amended. (Ord. 2007-064 Exh. A, 2007; Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.650 Development criteria.

(Ord. 2007-064 Exh. A, 2007; Ord. 96-056 Att. A § A1, 1996).

20.42.651 Plat language for proposed subdivisions.

When a proposed subdivision, binding site plan, short subdivision or exempt land division will be located adjacent to or across a right-of-way from an existing Forestry District, the developer and any subsequent purchasers or successors in interest shall agree to refrain from any legal action to restrain or collect damages from the owners of such adjacent properties, or from Whatcom County, arising out of any reasonable and lawful activity on said forestry lands which occurs in the normal course of their established use. The agreement shall appear as a covenant or deed restriction upon the plat, tract or instrument of conveyance and shall run with the land. (Ord. 2007-064 Exh. A, 2007; Ord. 99-058, 1999; Ord. 92-015, 1992; Ord. 87-12, 1987; Ord. 87-11, 1987).

20.42.652 Use of natural resources.

All discretionary project permits for land on or within one-half mile of the area designated as Agri-

culture, Rural, Commercial Forestry or Rural Forestry or within 300 feet of an area designated as Mineral Resource Lands in the Whatcom County Comprehensive Plan, or upon which farm operations are being conducted, shall be subject to the right to farm, right to practice forestry and mineral land disclosure policies contained in WCC Title 14, Use of Natural Resources. (Ord. 2007-064 Exh. A, 2007; Ord. 98-083 Exh. A § 48, 1998; Ord. 96-056 Att. A § A2, 1996; Ord. 92-094, 1992; Ord. 92-015, 1992).

20.42.653 Landscaping.

Refer to WCC 20.80.300 for landscaping requirements. (Ord. 2007-064 Exh. A, 2007; Ord. 92-094, 1992; Ord. 89-117, 1989).

20.42.654 Parking requirements.

Parking shall conform to the requirements of WCC 20.80.500. However, recreation vehicles and boat parking and storage shall be limited to side and rear yards. (Ord. 2007-064 Exh. A, 2007; Ord. 92-094, 1992).

20.42.655 Livestock regulations.

The keeping of livestock shall be administered pursuant to WCC 20.80.800 (Supplementary requirements). (Ord. 2007-064 Exh. A, 2007; Ord. 92-094, 1992).

20.42.656 Domestic water supplies.

Domestic water supply sources shall not be located within 100 feet of the property boundary or on an adjacent property without written consent of the adjacent property owner. (Ord. 2007-064 Exh. A, 2007; Ord. 92-094, 1992; Ord. 86-42, 1986).

20.42.657 Drainage.

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards. (Ord. 2007-064 Exh. A, 2007; Ord. 96-056 Att. A § A2, 1996; Ord. 94-022, 1994).

20.42.900 Conditional use permit criteria.

.901 The conditional uses listed in WCC 20.42.150 shall be subject to the following Forestry conditional use criteria. Said criteria listed in WCC

20.42.902 shall supersede the criteria listed in WCC 20.84.220.

.902 Before approving an application for a conditional use permit, the hearing examiner shall ensure that any specific standards of the use district defining the conditional use are fulfilled and shall find adequate evidence showing that the proposed conditional use at the proposed location will:

- (1) Be in accordance with all applicable local and state laws, standards and regulations;
- (2) Be reasonably compatible with the surrounding environment and with the policies of the Whatcom County Comprehensive Plan;
- (3) Not generate traffic in excess of capacity of the public road system at reasonable safety and service levels;
- (4) Not create unreasonable demands for public expenditures to provide services, facilities, or utilities beyond those which are normally required for permitted uses in the Forestry District;
- (5) Provide entrances to public roads or private roads open to public use in accordance with applicable county or state standards;
- (6) Provide reasonable sound and sight buffering so as not to detract from normal use of surrounding property, public and private roads, and trails open to public use;
- (7) Be located a reasonable distance from areas of actual or potential natural hazard;
- (8) Not unreasonably contribute to actual or potential water quality or quantity problems;
- (9) Be designed to provide reasonable safety from fire hazard;
- (10) Not unreasonably interfere with any territorial or otherwise significant view from surrounding property and public roads;
- (11) Not remove areas of native vegetation which protect shorelines and streambanks from erosion, except as necessary for such uses as culverts, bridges, boat ramps, recreation areas and stream bank stabilization projects; and
- (12) Include reasonable soil erosion plans necessary to prevent soil, organic debris and other pollutants from entering streams, ponds, or lakes. (Ord. 2007-064 Exh. A, 2007; Ord. 92-094, 1992).

Chapter 20.43

COMMERCIAL FORESTRY (CF) DISTRICT

Sections:

- 20.43.010 Purpose.
- 20.43.050 Permitted uses.
- 20.43.100 Accessory uses.
- 20.43.130 Administrative approval uses.
- 20.43.150 Conditional uses.
- 20.43.200 Prohibited uses.
- 20.43.250 Minimum lot size and width.
- 20.43.251 Minimum lot size.
- 20.43.450 Lot coverage.
- 20.43.550 Reforestation.
- 20.43.650 Development criteria.
- 20.43.651 Livestock regulations.
- 20.43.652 Domestic water supplies.
- 20.43.653 Drainage.
- 20.43.662 Use of natural resources.
- 20.43.900 Conditional use permit criteria.

20.43.010 Purpose.

The purpose of this district is to implement the forestry designation of the Comprehensive Plan, pursuant to RCW 36.70A.170, by providing for and encouraging the long-term productivity, commercial management and sustained use of forest resources. In addition, the district provides for uses that are compatible with forestry activities, while maintaining water quality and soil productivity. (Ord. 2005-079 § 1, 2005; Ord. 98-083 Exh. A § 49, 1998; Ord. 92-094, 1992; Ord. 86-42, 1986).

20.43.050 Permitted uses.

Unless otherwise provided herein, permitted, accessory and conditional uses shall be administered pursuant to the applicable provisions of Chapter 20.80 WCC (Supplementary Requirements) and Chapter 20.84 WCC (Variances, Conditional Uses, Administrative Approval Uses and Appeals), the Whatcom County SEPA Ordinance, the Whatcom County Subdivision Ordinance and the Whatcom County Shoreline Management Program.

.051 The cultivation, harvest, and production of forest products or any forest crop, in accordance with the Forest Practice Act of 1974 and any regulations adopted pursuant thereto; and the cultivation, harvest and production of ferns, moss, boughs, bark, berries, nuts, tree fruits, tree seeds, nursery stock, and Christmas trees.

Chapter 20.68 WCC. (Ord. 98-083 Exh. A § 57, 1998).

20.74.050 Conditional uses.

Conditional uses shall be the same as those permitted in the Heavy Impact Industrial District, Chapter 20.68 WCC. (Ord. 98-083 Exh. A § 57, 1998).

20.74.060 Master site plan requirements.

(1) Development in the Cherry Point Industrial District requires the review and approval of a master site plan, including SEPA review. Acceptable master site plans include site plans and supporting information submitted and approved for applications for a building permit, a short subdivision, a preliminary plat, a binding site plan, a major project permit or a planned unit development.

(2) The minimum area for a master site plan (planning block) shall be 160 acres, or the entire property under common ownership if the common ownership is less than 160 acres.

(3) Each planning block shall include one lot of not less than 40 acres in size to be designated as the site for a port or major industrial activity; provided, that if the planning block is 40 acres or smaller, the requirement for the major industrial site shall be waived.

(4) Within a planning block, one or more parcels smaller than 40 acres may be created for secondary uses.

(5) Review and approved of a master site plan for a planning block shall be included in the approval of any building permit, short subdivision, preliminary plat, binding site plan, major project permit or a planned unit development and shall be subject to the same review and approval standards, including SEPA review, as the plat, binding site plan or permit. Each master site plan shall identify, as appropriate, the proposed phasing of the development including the construction of public and private facilities and utilities. The master site plan or supporting documentation as appropriate shall also include any mitigation required under SEPA and the county critical areas ordinance. (Ord. 98-083 Exh. A § 57, 1998).

20.74.070 Minimum lot size and parcelization.

The minimum lot size in the Cherry Point Industrial District shall be 40 acres; provided, that lots less than 40 acres may be permitted as follows:

(1) When the lots are to be located within a development approved as a major project under

Chapter 20.88 WCC consistent with the master site plan requirements in this chapter.

(2) When the lots are to be located within a development approved as a planned unit development under Chapter 20.85 WCC consistent with the master site plan requirements of this chapter.

(3) When the lots are part of a short subdivision, long subdivision or binding site plan approved as consistent with the master site plan requirements of this chapter.

(4) When the administrator finds that the lot(s) will be developed with a use(s) that is consistent with the intent of the district and will not interfere with the development of the primary large uses intended by the Comprehensive Plan.

(5) When an existing lot of record is less than 40 acres, provided further division is consistent with this section. (Ord. 98-083 Exh. A § 57, 1998).

20.74.080 Design standards.

Unless otherwise modified by this chapter, building height, setbacks, landscaping, open space and other building and site design standards for areas south of Grandview Road shall be the same as those of the Heavy Impact Industrial District, Chapter 20.68 WCC; and for the area north of Grandview Road, the same as those of the Light Impact Industrial District, Chapter 20.66 WCC. (Ord. 98-083 Exh. A § 57, 1998).

Chapter 20.75

SCHOOL FACILITY IMPACT FEES

Sections:

- 20.75.010 Findings.
- 20.75.020 Purpose.
- 20.75.030 Applicability.
- 20.75.040 Findings, recommendations, and decisions regarding school capacities.
- 20.75.050 School concurrency standard.
- 20.75.060 School district eligibility for impact fees.
- 20.75.070 Imposition of impact fees.
- 20.75.080 Calculation of impact fees.
- 20.75.090 Impact fee credits.
- 20.75.100 Interlocal agreements.
- 20.75.110 Expenditure of funds.
- 20.75.120 Refunds.
- 20.75.130 Payment under protest.
- 20.75.140 Adjustment of fee amount.
- 20.75.150 Appeals.

20.75.010 Findings.

(1) New residential development resulting from forecasted population growth will create additional demand for public school facilities.

(2) While the general community benefits from new public facilities and should continue to pay the majority of facility costs, it is appropriate to require new development to pay its proportionate share of the cost of new facilities.

(3) The Washington State Legislature, with the passage of the Growth Management Act, has removed previously enacted restrictions and authorized development impact fees as an additional source of funding for common school facilities, in addition to local tax revenues and state grants from the common school construction fund.

(4) The Washington State Legislature, through Chapter 82.02 RCW, authorizes cities and counties planning under GMA to impose impact fees on development activity as part of the financing for public facilities to help ensure that adequate facilities are available to serve new growth and development. (Ord. 2007-067 Exh. A, 2007).

20.75.020 Purpose.

The purpose of this chapter is (1) to ensure that adequate school facilities are available to serve new residential growth and development; (2) to require that new growth and development pay a proportionate share of the costs of new school facilities needed to serve new growth and develop-

ment; and (3) to ensure that school impact fees are administered consistently and fairly. (Ord. 2007-067 Exh. A, 2007).

20.75.030 Applicability.

(1) The terms of this chapter shall apply to all forms of residential development that would result in the creation of new residential building lots or construction of new dwelling units.

(2) Reconstruction or remodeling of existing dwelling units or construction of commercial structures are not subject to the provisions of this chapter.

(3) Notwithstanding the above, developments for which a complete application for approval was submitted before the effective date of this chapter or that was subject to a prior State Environmental Policy Act (SEPA) threshold determination that provided for school mitigation are not subject to the provisions of this chapter. (Ord. 2007-067 Exh. A, 2007).

20.75.040 Findings, recommendations, and decisions regarding school capacities.

(1) In making a threshold determination pursuant to SEPA, the director and/or the hearing examiner, in the course of reviewing proposals for residential development including, but not limited to, applications for subdivisions, PUDs, mobile home parks and multifamily building permits, shall consider the school district's capital facilities plan as adopted by the county council.

(2) County-adopted school facility capital facilities plans shall be incorporated into the record in every case without requiring the district to offer such plans and data into the record. The school district is also authorized to present testimony and documents demonstrating a lack of concurrency in the district and the inability of the district to accommodate the students to be generated by a specific development.

(3) Based upon a finding that adequate school facility requirements are not met per the requirements of WCC 20.75.050, the director may require or recommend phasing or provision of the needed facilities and/or sites as appropriate to address the deficiency or deny or condition approval, consistent with the provisions of this chapter, WCC Title 21, the State Subdivision Act, and the State Environmental Policy Act.

(4) Where the county council has not adopted an impact fee ordinance for a particular school district, the language of this section shall not affect the

authority or duties of the hearing examiner or the director pursuant to the State Environmental Policy Act or the State Subdivision Act.

(5) Determinations of the hearing examiner or director regarding school facility adequacy may be appealed pursuant to the provisions for appeal of the development permit process for which the determination has been made. (Ord. 2007-067 Exh. A, 2007).

20.75.050 School concurrency standard.

(1) Schools shall be considered to have been provided concurrently with the development which will impact the schools if:

(a) The permanent and interim improvements necessary to serve the development are planned to be in place at the time the impacts of development are expected to occur; or

(b) The necessary financial commitments are in place to assure the completion of the needed improvements to meet the district's level of service standard within six years of the time that the impacts of development are expected to occur.

(2) Any combination of the following shall constitute the "necessary financial commitments" for the purposes of this section:

(a) The district has received voter approval of and/or has bonding authority;

(b) The district has received approval for federal, state, or other funds;

(c) The district has received a secured commitment from a developer to construct the needed permanent school facility, and the school district has found such facility to be acceptable and consistent with its capital facilities plan; and/or

(d) The district has other assured funding, including but not limited to school impact fees which have been paid. (Ord. 2007-067 Exh. A, 2007).

20.75.060 School district eligibility for impact fees.

(1) A school district becomes eligible to receive school impact fees once the county council adopts the school district's six-year capital facilities plan (CFP). The school district will remain eligible to receive school impact fees until the timeframe of the adopted CFP elapses or until the date specified in the adopting ordinance, whichever occurs first.

(2) Council adoption of the district's CFP also constitutes county adoption of the school impact fee schedule specified in the CFP. (Ord. 2007-067 Exh. A, 2007).

20.75.070 Imposition of impact fees.

(1) This chapter shall be uniformly applicable to residential development that occurs within the county pursuant to Chapter 82.02 RCW. Impact fees will be assessed on every new dwelling unit for which the requirements of WCC 20.75.050 been met.

(2) The school impact fees specified in the district's school capital facilities plan and adopted by the county council shall constitute the county's schedule of school impact fees.

(3) Implementation of the fee collection process shall be further detailed by interlocal agreement. No fee will be collected by the county until an interlocal agreement as required in WCC 20.75.100 has been approved by the county and the district.

(4) For nondiscretionary residential building permits, the applicability of school impact fees will be determined at the time of building permit application. The amount of the fee due shall be based on the fee schedule in effect at the time of permit application. Credit amounts and allocation of credits to be applied against the fees shall be determined by the district at the time of permit approval in accordance with WCC 20.75.090.

(5) Residential development activities that are subject to discretionary review by the county such as long plats and planned contracts shall include in the conditions of approval a determination of the project's school impact fee obligation under this chapter. Said determination shall include any credits for in-kind contributions provided per WCC 20.75.090.

(6) In all cases, the amount of school impact fees shall be that which is in effect at the time of application for building permit. The fee shall be paid at building permit issuance. (Ord. 2007-067 Exh. A, 2007).

20.75.080 Calculation of impact fees.

(1) Separate fees shall be calculated for single-family and multifamily types of dwelling units. For purposes of this chapter, manufactured housing shall be treated as single-family dwellings and duplexes shall be treated as multifamily dwellings.

(2) The calculation of school impact fees shall be based upon the school district's capital facilities plan, as approved by the county council and adopted by reference into the capital facilities element of the Whatcom County Comprehensive Plan.

20.75.090

(3) The capital facilities plan shall contain the following as a basis for the adoption of school impact fees to be collected by the county:

- (a) Inventory of permanent and relocatable classroom facilities;
- (b) Student enrollment projections over a six-year period;
- (c) Facility needs and planned improvements over a six-year period;
- (d) Six-year financing plan; and
- (e) Methodology used for the calculation of the fees.

(4) The proposed fee shall be calculated based on the following factors as documented in the capital facilities plan:

- (a) The costs of site acquisition;
- (b) The costs of facility construction or improvements;
- (c) The costs of needed portables;
- (d) The proportionate share of the above costs attributable to new development;
- (e) The costs of previously constructed facilities that serve new development; provided, that the fee is not used to make up for any existing system deficiencies not related to new growth; and
- (f) Credits or other revenues applied, such as user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement.

(5) The impact fee may be discounted by an amount deemed appropriate by the county in order to be consistent with impact fees being required by other jurisdictions within the school district. (Ord. 2007-067 Exh. A, 2007).

20.75.090 Impact fee credits.

Whenever a development includes or is granted approval subject to a condition that the development applicant actually provide a school facility, land dedication, or system improvement that is acceptable to the district and the county and is identified in the district's capital facilities plan, the development applicant shall be entitled to a credit for the actual cost of providing the facility against the fee that would be chargeable under this chapter. The cost of construction shall be estimated at the time of approval but must be documented and confirmed after the construction is complete to assure that an accurate credit amount is provided. If construction costs are less than the calculated impact fee amount, the difference remaining shall be chargeable as a school impact fee. In the event the amount of the credit is calculated to be greater than the amount of the impact fee due, the development applicant may apply such excess credit toward

impact fees imposed on other developments by the applicant within the same service area. (Ord. 2007-067 Exh. A, 2007).

20.75.100 Interlocal agreements.

(1) The school district and the county shall by interlocal agreement provide for the establishment and maintenance of separate accounts by the county finance department and for the expenditure of fees by the district in a timely fashion on appropriate capital projects as required by Chapter 82.02 RCW.

(a) The agreement shall provide for the keeping of records for each such account whereby collected impact fees can be segregated by type of facility.

(b) The agreement shall specify the fees, if any, the county will charge the school district for the collection of the fees authorized in this chapter.

(c) The agreement shall provide for the transfer of collected fees from the county to the district. (Ord. 2007-067 Exh. A, 2007).

20.75.110 Expenditure of funds.

(1) School impact fees may be used by the district only for capital facilities that are reasonably related to the development for which they were assessed and may be expended only in conformance with the district's adopted school facilities plan.

(2) In the event that bonds or similar debt instruments are issued for the advance provision of capital facilities for which school impact fees may be expended, and where consistent with the provisions of the bond covenants and state law, school impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the capital facilities provided are consistent with the requirements of this title.

(3) The responsibility for assuring that school impact fees are used for authorized purposes rests with the district. All interest earned on a school impact fee account must be retained in the account and expended for the purpose or purposes for which the school impact fees were imposed, subject to the refund provisions of WCC 20.75.120.

(4) The district shall provide the county an annual report showing the source and the amount of school impact fees received by the district and the capital facilities financed in whole or in part with those school impact fees. (Ord. 2007-067 Exh. A, 2007).

20.75.120 Refunds.

(1) Current owners of property on which an impact fee has been paid may receive a refund of such fees if the district fails to expend or encumber the impact fees within six years of when the fees were paid or such other period of time established pursuant to WCC 20.75.110.

(a) In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first-in, first-out basis.

(b) If funds are not encumbered, the district shall notify the county, and the county shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of claimants.

(c) The request for refund money must be submitted to the county finance director in writing within one year of the date the right to claim the refund arises or the date the notice is given, whichever is later. Any impact fees that are not expended within the six-year time limitation, and for which no application for refund has been made within this one-year period, shall be retained and expended on the indicated public facilities. Refunds of impact fees under this subsection shall include interest earned on the impact fees.

(d) A development applicant may request and shall receive a refund, including interest earned on the impact fees, when the building permit for which the impact fee has been paid has lapsed for noncommencement of construction. A partial refund shall be provided where the project for which a building permit has been issued has been altered, resulting in a decrease in the amount of the original impact fee due.

(2) The interlocal agreement required in WCC 20.75.100 shall detail a refund process, as required by Chapter 82.02 RCW. (Ord. 2007-067 Exh. A, 2007).

20.75.130 Payment under protest.

Impact fees may be paid under protest. If the fee is protested, the county shall make final resolution of the protest a condition of the permit. Final occupancy of structures within the development shall not be approved until the protest is resolved. Arbitration may be utilized if agreeable to the county and the applicant. Any costs related to arbitration shall be distributed evenly between the applicant and the subject district. (Ord. 2007-067 Exh. A, 2007).

20.75.140 Adjustment of fee amount.

The county council may adjust the fee and if one of the following exists:

(1) An applicant requests reduction in writing and submits compelling data demonstrating a lower student generation rate and the district concurs; or

(2) The proposed development will result in the provision of affordable housing as defined by the then-current Whatcom County Code. Fees reduced or waived in this circumstance must be replaced with other public funds. (Ord. 2007-067 Exh. A, 2007).

20.75.150 Appeals.

Determinations of the hearing examiner or director regarding the application of the terms of this chapter may be appealed pursuant to the provisions for appeal of the development permit process for which the determination has been made. (Ord. 2007-067 Exh. A, 2007).

Chapter 20.78

TRANSPORTATION CONCURRENCY MANAGEMENT¹

Sections:

- 20.78.010 Purpose.
- 20.78.020 Authority.
- 20.78.030 Exempt development.
- 20.78.040 Level of service standards.
- 20.78.050 Concurrency evaluation.
- 20.78.060 Concurrency determination.
- 20.78.070 Certificates of transportation capacity.
- 20.78.080 Administrative reconsideration.
- 20.78.090 Appeal.
- 20.78.100 Annual transportation concurrency report.
- 20.78.110 Definitions.

20.78.010 Purpose.

The purpose of this chapter is to ensure that adequate transportation facilities are available or provided concurrent with development, in accordance with the Growth Management Act (RCW 36.70A.070) and consistent with WAC 365-195-510 and 365-195-835. No development permit shall be issued except in accordance with this chapter. (Ord. 2007-043 Exh. A, 2007).

20.78.020 Authority.

The planning and development services director, or his/her designee, shall be responsible for implementing and enforcing this chapter. (Ord. 2007-043 Exh. A, 2007).

20.78.030 Exempt development.

The following development permits shall be exempt from requiring a new concurrency evaluation:

- (1) Developments with complete applications prior to the effective date of the ordinance codified in this chapter, so long as the original proposal has not been modified after the effective date of the ordinance codified in this chapter in a manner that increases development units.
- (2) Renewals of previously issued, unexpired permits.
- (3) Phases of projects that were included in a concurrency evaluation as part of the original application (i.e., phased development); provided,

that the determination of concurrency was approved for the subsequent phase.

(4) Development applications for public buildings, including but not limited to:

- (a) Public libraries;
 - (b) Publicly funded and operated educational facilities;
 - (c) Public parks and recreation facilities;
- and
- (d) Public transportation facilities.

(5) Development that does not result in an impacted transportation facility as defined by this chapter; such development includes but is not limited to:

- (a) Residential development projects of four or fewer dwelling units;
- (b) Subdivision of land that will result in four or fewer dwelling units;
- (c) Nonresidential developments that generate four or fewer peak hour project trips;
- (d) Any addition or accessory structure to a residence with no change in use or increase in the number of dwelling units;
- (e) Interior renovations with no change in use or increase in the number of development units;
- (f) Interior completion of a structure for use(s) generating the same or less peak hour traffic as the existing use or a previously approved use;
- (g) Replacement structure with no change in use or increase in the number of development units;
- (h) Temporary construction trailers;
- (i) Driveway resurfacing or parking lot paving;
- (j) Reroofing structures; and
- (k) Demolitions.

(6) At his or her discretion, the director may require of an applicant for a development permit that does not qualify as exempt pursuant to subsection (5) of this section a trip generation and distribution study performed by a traffic engineer to confirm that the proposed development or use does not result in an impacted transportation facility.

(7) Notwithstanding the exemptions listed above, the traffic resulting from any exempt use or permit shall be included in computing background traffic for any nonexempt development. (Ord. 2007-043 Exh. A, 2007).

20.78.040 Level of service standards.

The transportation level of service standards are described and contained in the Whatcom County Comprehensive Plan and any adopted modifications. (Ord. 2007-043 Exh. A, 2007).

1. Code reviser's note: The provisions of Ord. 2007-043 expire March 23, 2008.

- conditional uses 20.36.150
- development criteria 20.36.650
- drainage 20.36.656
- established 20.04.060
- height limitations 20.36.400
- landscaping 20.36.653
- livestock regulations 20.36.655
- lot clustering, reserve tract
 - design standards 20.36.310
 - generally 20.36.300
 - purpose 20.36.305
 - subdivisions 20.36.320
- lot coverage 20.36.450
- lot size
 - density, maximum 20.36.253
 - generally 20.36.250
 - minimum, maximum density 20.36.251
 - minimum width, depth 20.36.254
- multifamily farmworker housing 20.36.140
- natural resources use 20.36.652
- parking requirements 20.36.654
- permitted uses 20.36.050
- prohibited uses 20.36.200
- purpose 20.36.010
- subdivisions, plat language requirement 20.36.651
- Rail, truck, freight terminals
 - GM district 20.67.063
 - LII district 20.66.063
- RC district
 - access 20.64.657
 - accessory uses 20.64.100
 - administrative approval uses 20.64.130
 - adult businesses prohibited 20.64.202
 - binding site plan 20.64.659
 - buffer area 20.64.550
 - building setbacks 20.64.350
 - conditional uses 20.64.150
 - development criteria 20.64.650
 - drainage 20.64.655
 - driveways 20.64.656
 - established 20.04.060
 - facility design 20.64.651
 - height limitations 20.64.400
 - landscaping 20.64.652
 - lighting 20.64.658
 - lot clustering, reserve tract
 - design standards 20.64.310
 - generally 20.64.300
 - purpose 20.64.305
 - subdivision 20.64.320
 - lot coverage 20.64.450
 - lot frontage 20.64.256
 - lot size, density
 - maximum 20.64.260
 - minimum 20.64.250
 - subdivision configuration 20.64.270, 20.64.271
 - off-street parking 20.64.653
 - open space
 - comparative value exchange reductions 20.64.502, 20.64.503
 - required 20.64.501
 - performance standards 20.64.700
 - permitted uses 20.64.050
 - prohibited uses 20.64.200
 - purpose 20.64.010
 - sidewalks 20.64.654
 - sign regulations 20.64.600
 - site design 20.64.660
- Recreation and open space district *See* ROS district
- Recreation establishments, commercial
 - RC district 20.64.158
- Recreation facilities
 - commercial
 - GI district 20.65.055
 - LII district 20.66.156
 - UR district 20.20.156
 - employee
 - AO district 20.70.104
 - GM district 20.67.101
 - HII district 20.68.101
 - LII district 20.66.101
 - GC district 20.62.063, 20.62.070
 - GI district 20.65.062, 20.65.101
 - GM district 20.67.073
 - HII district 20.68.062
 - indoor commercial
 - AO district 20.70.069
 - GC district 20.62.056
 - STC district 20.61.207
 - TC district 20.63.061
 - indoor, outdoor
 - RF district 20.42.154
 - LII district 20.66.077
 - NC district 20.60.060, 20.60.062
 - noncommercial
 - EI district 20.35.052
 - outdoor commercial
 - AO district 20.70.153
 - GI district 20.65.055
 - STC district 20.61.208
 - TC district 20.63.155
 - primitive
 - CF district 20.43.154
 - R district 20.36.064, 20.36.151
 - RC district 20.64.059, 20.64.161
 - RR district 20.32.053, 20.32.151
 - RR-I district 20.34.058, 20.34.151
 - STC district 20.61.063
 - TC district 20.63.066
 - TZ district 20.37.052, 20.37.151
 - UR district 20.20.054
 - URM district 20.22.053, 20.22.151
 - UR-MX district 20.24.053, 20.24.151
- Recreational vehicle parks
 - GC district 20.62.154
 - GI district 20.65.056
 - RC district 20.64.157
 - ROS district 20.44.155
 - standards 20.80.950
 - STC district 20.61.206
 - TC district 20.63.153
- Recreational vehicles
 - CF district 20.43.057, 20.43.061
 - Point Roberts special district 20.72.135
 - R district 20.36.056
 - RC district 20.64.065
 - RF district 20.42.065
 - RR district 20.32.134
 - sales, service, repair
 - GC district 20.62.053

Zoning

- STC district 20.61.051
- UR district 20.20.135
- Reforestation
 - R district 20.36.055
 - RR-I district 20.34.054
- Refreshment stands
 - ROS district 20.44.111, 20.44.154
- Rehabilitation centers
 - R district 20.36.154
 - RR district 20.32.154
 - RR-I district 20.34.154
 - TZ district 20.37.154
 - URM district 20.22.154
 - UR-MX district 20.24.154
- Religious training institutions
 - TZ district 20.37.153
- Rendering plants
 - AG district 20.40.157
- Rental agencies
 - GC district 20.62.055
- Rental cabins
 - R district 20.36.176
 - RF district 20.42.155
- Rental storage establishments
 - GC district 20.62.062
- Residence in commercial structure
 - GC district 20.62.158
 - STC district 20.61.067
- Residential rural district *See* RR district
- Resort administrative offices
 - RC district 20.64.102
- Resort commercial district *See* RC district
- Restaurants
 - AG district 20.40.160
 - AO district 20.70.065
 - HII district 20.68.102
 - off-street parking and loading 20.80.580
 - RC district 20.64.055
 - ROS district 20.44.154
 - STC district 20.61.053
 - TC district 20.63.051
 - UR-MX district 20.24.161
- Retail establishments
 - GC district 20.62.059
 - RC district 20.64.105
 - STC district 20.61.056, 20.61.104, 20.61.151, 20.61.201
- Retail sales, shops
 - GI district 20.65.055, 20.65.104
 - LII district 20.66.105
 - off-street parking and loading 20.80.580
 - RC district 20.64.053
 - RR-I district 20.34.156
 - TC district 20.63.052
- Retirement homes
 - R district 20.36.154
 - RC district 20.64.164
 - RR district 20.32.154
 - RR-I district 20.34.154
 - TZ district 20.37.154
 - UR district 20.20.154
 - URM district 20.22.154
 - UR-MX district 20.24.154
- RF district
 - accessory uses 20.42.100
 - administrative approval uses 20.42.130
 - adult businesses prohibited 20.42.202
 - building setbacks 20.42.350
 - conditional use permit criteria 20.42.900
 - conditional uses 20.42.150
 - development criteria 20.42.650
 - drainage 20.42.657
 - established 20.04.060
 - height limitations 20.42.400
 - landscaping 20.42.653
 - livestock regulations 20.42.655
 - lot coverage 20.42.450
 - lot size
 - generally 20.42.250
 - maximum density 20.42.252
 - minimum 20.42.251
 - minimum width, depth 20.42.253
 - natural resources use 20.42.652
 - parking requirements 20.42.654
 - permitted uses 20.42.050
 - prohibited uses 20.42.200
 - purpose 20.42.010
 - reforestation area 20.42.550
 - subdivisions, plat language requirement 20.42.651
 - water supply, domestic 20.42.656
- Riding academies
 - RF district 20.42.154
- Rock crushing
 - AG district 20.40.163
 - MRL district 20.73.152
 - R district 20.36.173
 - RF district 20.42.162
- Roominghouses
 - off-street parking and loading 20.80.580
 - RC district 20.64.062, 20.64.155
 - URM district 20.22.155
- ROS district
 - accessory uses 20.44.100
 - adult businesses prohibited 20.44.202
 - building setbacks 20.44.350
 - conditional uses 20.44.150
 - development criteria 20.44.650
 - drainage 20.44.652
 - driveways 20.44.653
 - established 20.04.060
 - height limitations 20.44.400
 - landscaping 20.44.651
 - lot coverage 20.44.450
 - lot size 20.44.250
 - off-street parking 20.44.654
 - open space 20.44.500
 - permitted uses 20.44.050
 - prohibited uses 20.44.200
 - purpose 20.44.010
 - sign regulations 20.44.600
- RR district
 - accessory uses 20.32.100
 - administrative approval uses 20.32.130
 - adult businesses prohibited 20.32.202
 - building setbacks 20.32.350
 - conditional uses 20.32.150
 - development criteria 20.32.650
 - drainage 20.32.656
 - established 20.04.060
 - height limitations 20.32.400
 - landscaping 20.32.653

- livestock regulations 20.32.655
- lot clustering, reserve tract 20.32.300
 - design standards 20.32.310
 - purpose 20.32.305
 - subdivision 20.32.320
- lot coverage 20.32.450
- lot size
 - maximum density 20.32.253
 - maximum density, minimum size, width 20.32.250
 - minimum width, depth 20.32.254
 - minimum, maximum density 20.32.251
- natural resources use 20.32.652
- parking requirements 20.32.654
- permitted uses 20.32.050
- prohibited uses 20.32.200
- purpose 20.32.010
- subdivisions, plat language requirement 20.32.651
- RR-I district
 - accessory uses 20.34.100
 - administrative approval uses 20.34.130
 - adult businesses prohibited 20.31.202
 - building setbacks 20.34.350
 - conditional uses 20.34.150
 - density transfer 20.34.330
 - development criteria 20.34.650
 - drainage 20.34.659
 - established 20.04.060
 - fire flow requirements 20.34.657
 - ground water regulations 20.34.658
 - height limitations 20.34.400
 - landscaping 20.34.653
 - limited use near shoreline 20.34.170
 - livestock regulations 20.34.655
 - lot clustering, reserve tract
 - design standards 20.34.310
 - generally 20.34.300
 - purpose 20.34.305
 - subdivision 20.34.320
 - lot coverage 20.34.450
 - lot size
 - generally 20.34.250
 - lots platted prior to 1978 20.34.254
 - maximum density, minimum lot size 20.34.252
 - minimum width, depth 20.34.253
 - minimum, maximum density 20.34.251
 - natural resources use 20.34.652
 - parking requirements 20.34.654
 - permitted uses 20.34.050
 - prohibited uses 20.34.200
 - purpose 20.34.010
 - slope regulations 20.34.656
 - subdivisions, plat language requirement 20.34.651
- Rubber product manufacture, processing
 - HII district 20.68.054
 - LII district 20.66.073
- Runways
 - AO district 20.70.051
- Rural district *See* R district
- Rural forestry district *See* RF district
- Rural residential-island district *See* RR-I district
- Sand extraction
 - noncommercial
 - AG district 20.40.103
 - R district 20.36.057
 - Point Roberts special district 20.72.152
- Sand manufacture
 - LII district 20.66.152
- Sanitariums
 - off-street parking and loading 20.80.580
- Sawmills
 - CF district 20.43.052
 - RF district 20.42.053
- Scaling stations
 - CF district 20.43.052
 - RF district 20.42.053
- Schools
 - facility impact fees
 - adjustment 20.75.140
 - appeals 20.75.150
 - applicability 20.75.030
 - calculation 20.75.080
 - concurrency standard 20.75.050
 - credits 20.75.090
 - district eligibility 20.75.060
 - findings 20.75.010
 - funds expenditure 20.75.110
 - imposition 20.75.070
 - interlocal agreements 20.75.100
 - payment under protest 20.75.130
 - purpose 20.75.020
 - refunds 20.75.120
 - school capacities 20.75.040
 - off-street parking and loading 20.80.580
 - R district 20.36.152
 - RC district 20.64.162
 - RR district 20.32.152
 - RR-I district 20.34.152
 - STC district 20.61.062
 - TZ district 20.37.152
 - UR district 20.20.152
 - URM district 20.22.152
 - UR-MX district 20.24.152
- Secure community transition facilities for sex offenders
 - GC district 20.62.094
 - LII district 20.66.094
 - STC district 20.61.247
- Security services
 - GM district 20.67.105
 - HII district 20.68.105
- Service buildings
 - off-street parking and loading 20.80.580
- Service establishments
 - GC district 20.62.058
 - STC district 20.61.054, 20.61.104, 20.61.151, 20.61.201
- Service, maintenance operations
 - AO district 20.70.058
- Service stations
 - GC district 20.62.052
 - GI district 20.65.056
 - GM district 20.67.075
 - NC district 20.60.151
 - off-street parking and loading 20.80.580
 - RC district 20.64.159
 - TC district 20.63.057
- Setback requirements
 - See also* building setback under Specific District
 - agriculture district 20.80.255
 - commercial districts 20.80.253
 - forestry districts 20.80.256
 - industrial districts 20.80.254

Zoning

- manure, open pit storage 20.80.258
- measurement 20.80.230
- minimum 20.80.210
- recreation, open space district 20.80.257
- residential district 20.80.251
- rural district 20.80.252
- signs, advertising 20.80.215
- use of area 20.80.220
- Severability 20.95.010
- Sewage sludge utilization
 - biosolids
 - AG district 20.40.106
 - CF district 20.43.101
 - noncommercial
 - R district 20.36.106
 - RF district 20.42.101
- Shake, shingle mills
 - CF district 20.43.052
 - RF district 20.42.053
- Shooting ranges
 - CF district 20.43.164
 - RF district 20.42.166
- Sign controls
 - airport districts 20.80.450
 - applicability 20.80.400
 - exemptions 20.80.470
 - GC district 20.80.430
 - general manufacturing district 20.80.450
 - general provisions, applicability 20.80.410
 - industrial districts 20.80.450
 - NC district 20.80.420
 - RC district 20.80.440
 - ROS district 20.80.460
 - TC district 20.80.435
 - UR-MX district 20.80.465
- Signs, advertising
 - setback requirements 20.80.215
- Silverware fabrication, manufacture
 - GM district 20.67.062
- Silviculture
 - RR district 20.32.054
- Single-family dwellings
 - AG district 20.40.053
 - attached
 - UR district 20.20.052
 - UR-MX district 20.24.052
 - EI district 20.35.051
 - GC district 20.62.065
 - GI district 20.65.060
 - off-street parking and loading 20.80.580
 - R district 20.36.051
 - RC district 20.64.051
 - RF district 20.42.056
 - RR district 20.32.051, 20.32.052
 - RR-I district 20.34.051, 20.34.155
 - STC district 20.61.066
 - temporary detached
 - AG district 20.40.132
 - TZ district 20.37.132
 - TZ district 20.37.051
 - UR district 20.20.051
 - URM district 20.22.051
 - UR-MX district 20.24.051
- Skating rinks
 - GC district 20.62.056
 - off-street parking and loading 20.80.580
- Small town commercial district *See* STC district
- Sod farming
 - R district 20.36.053
- Solar power plant
 - EI district 20.35.106, 20.35.153
- Solid waste handling facilities
 - AG district 20.40.185
 - AO district 20.70.085
 - CF district 20.43.185, 20.43.186, 20.43.187
 - EI district 20.35.185
 - GC district 20.62.185, 20.62.186
 - GI district 20.65.185
 - GM district 20.67.185, 20.67.186, 20.67.187
 - HII district 20.68.085, 20.68.086, 20.68.187
 - LII district 20.66.085, 20.66.086, 20.66.185, 20.66.186, 20.66.187
 - NC district 20.60.185
 - R district 20.36.185, 20.36.186, 20.36.187
 - RC district 20.64.185
 - RF district 20.42.185, 20.42.186
 - RR district 20.32.185, 20.32.186
 - RR-I district 20.34.185, 20.34.186
 - STC district 20.61.235
 - TC district 20.63.185
 - TZ district 20.37.185, 20.37.186
 - UR district 20.20.185
 - URM district 20.22.185
 - UR-MX district 20.24.185, 20.24.186
 - water resource protection overlay district 20.71.185
- Sporting goods stores
 - STC district 20.61.056
- Sports facilities
 - off-street parking and loading 20.80.580
 - Point Roberts special district 20.72.154
 - R district 20.36.165
- Stables
 - accessory
 - water resource protection overlay district 20.71.153
 - commercial
 - R district 20.36.156
 - R district 20.36.155
- Stadiums
 - ROS district 20.44.152
- State education facilities
 - AG district 20.40.183
 - AO district 20.70.183
 - GC district 20.62.246
 - GM district 20.67.183
 - LII district 20.66.183
 - R district 20.36.183
 - RC district 20.64.183
 - RR district 20.32.183
 - RR-I district 20.34.183
 - STC district 20.61.183
 - TC district 20.63.183
 - TZ district 20.37.183
 - UR district 20.20.183
 - URM district 20.22.183
 - UR-MX district 20.24.183
- Statement of purpose 20.04.020
- Stationery stores
 - NC district 20.60.056
 - UR-MX district 20.24.161
- Statutory authority 20.04.010

STC district

- access 20.61.706
- accessory uses 20.61.100, 20.61.101
- administrative approval uses 20.61.150
- adult businesses prohibited 20.61.252
- binding site plan 20.61.708
- buffer area 20.61.600
- building setbacks 20.61.400
- conditional uses 20.61.200
- density 20.61.350
- development criteria 20.61.700
- drainage 20.61.704
- driveways 20.61.705
- established 20.04.060
- facility design 20.61.701
- height limitations 20.61.450
- landscaping 20.61.702
- lighting 20.61.707
- lot coverage 20.61.500
- lot frontage 20.61.255
- lot size 20.61.300
- off-street parking, loading 20.61.703
- open space 20.61.550
- performance standards 20.61.750
- permitted uses 20.61.050
- prohibited uses 20.61.250
- purpose 20.61.010
- sign regulations 20.61.650
- subdivisions, plat language requirement 20.61.709

Storage building

- AG district 20.40.055, 20.40.107
- AO district 20.70.072
- CF district 20.43.063
- EI district 20.35.057
- GC district 20.62.067
- GI district 20.65.061
- GM district 20.67.076
- HII district 20.68.063
- LII district 20.66.079

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