

CHAPTER 1

ADMINISTRATION

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WHATCOM COUNTY DEVELOPMENT STANDARDS

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WHATCOM COUNTY DEVELOPMENT STANDARDS

CHAPTER 1 – ADMINISTRATION

PURPOSE

The main purposes of this chapter are to identify the authority for adopting Development Standards, identify the basic functions of Development Standards, identify County personnel responsible for administering Development Standards, and identify the process by which relief from the strict application of Development Standards may be requested.

Section 101 – ENABLING ORDINANCE REQUIREMENTS

Section 12.08.035 of the Whatcom County Code (WCC), which was adopted by the County Council in 1994 under Ordinance No. 94-018, establishes the authority for adoption of Development Standards. This section of the Code states that Whatcom County shall establish uniform, comprehensive and distinct requirements that will be applied to all developments, unless they are specifically exempt. These requirements will be called the “Whatcom County Development Standards” and will exist to provide clear guidelines for all development activity within the County. The Development Standards establish administrative and technical requirements for the implementation of land use regulations and provide the basis by which developments are evaluated to ensure compliance with County regulations.

The Whatcom County Development Standards are not intended to establish new land use regulations or levels of service provided by Whatcom County. Rather, the Development Standards shall be used by government officials and the public in the planning and implementation of development projects within the County and are intended to provide a service to the public in this process. It is the intent of these standards to eliminate arbitrary, subjective, and independent decisions throughout the development process. These standards are also intended to provide flexibility and responsiveness to individual site characteristics and projects, and to encourage and support innovative development design solutions that meet or surpass the standards required by Whatcom County through the establishment of minimum performance requirements. It is expected that the process established will enable a dynamic and continuous improvement of Whatcom County’s development activity.

Section 102 – CRITERIA FOR DEVELOPMENT STANDARDS

Development Standards shall be:

- A. Based upon technical application of professional practices;
- B. The basis for dimensional requirements, analytical functions, reporting, and documentation;
- C. Specifically dependent upon legislative authority;
- D. Detailed, instructional, objective, factual, and focused on specific issues; and
- E. The basis for establishing how a permitted activity is allowed or how a prohibited activity is avoided.

Section 103 – TECHNICAL ADMINISTRATOR DUTIES

The Technical Administrator shall perform the following functions:

- A. Administering the Development Standards, which includes making administrative decisions relating to compliance of individual applications or projects with the Development Standards.
- B. Approving or denying administrative variance requests.
- C. Making recommendations to the Technical Advisory Committee (TAC) for modifications to the Development Standards. Recommendations for minor modifications that affect only procedural or reporting criteria may be made directly to the County Executive without a recommendation to the TAC.

Section 104 – TECHNICAL ADVISORY COMMITTEE DUTIES

The TAC shall perform the following functions:

- A. Making recommendations to the County Executive for approval of new Development Standards or major modifications of existing Development Standards. TAC review is intended to ensure compliance with land use regulations and comprehensive plans, consistency with accepted professional practices, and consistency with adopted County objectives through evaluation of technical and dimensional requirements.
- B. Making recommendations to the County Executive for granting or denying appeals of the Technical Administrator's decisions relating to project designs deemed by the Technical Administrator not to be in strict compliance with the development standards. TAC review is intended to ensure compliance with land use regulations and comprehensive plans, consistency with accepted professional practices, and consistency with adopted County objectives through evaluation of technical and dimensional requirements.

Section 105 – COUNTY EXECUTIVE DUTIES

The County Executive shall perform the following functions:

- A. Approve new or modified Development Standards, subject to review by the County Council if a majority of the County Council or the County Executive requests such review.
- B. Issue a final decision on any appeals filed by any party.

Section 106 – ADMINISTRATIVE VARIANCE PROCEDURE

- A. Alternatives to specific requirements of the Development Standards may be considered through the administrative variance procedure.
- B. A variance request must be made to the Technical Administrator. The Technical Administrator will then establish minimum information requirements that must be submitted by the applicant. The Technical Administrator is responsible for reviewing all applications for variances to the Development Standards and is responsible for approving or denying variance requests.
- C. Variances to Whatcom County Development Standards will be issued upon receipt of technical documentation acknowledging that minimum performance requirements will be met.
- D. In order for a variance to be approved, the applicant must demonstrate that all of the following criteria are satisfied.
 - 1. The variance provides an equivalent result, as provided for in minimum performance requirements, that is in the overriding public interest. The objectives of safety, function, environmental protection, and facility maintenance, based upon sound engineering, must be fully met.
 - 2. There are special physical circumstances or conditions affecting the property such that the strict application of these provisions would deprive the applicant of all reasonable use of the parcel of land in question and every effort to find creative ways to meet the intent of minimum performance requirements has been made.
 - 3. The granting of the variance will not be detrimental to the public health and welfare, nor injurious to other properties in the vicinity and/or downstream, nor injurious to the quality of waters of the state.
 - 4. The variance is the least possible exception that could be granted to comply with the intent of the minimum performance requirements.
 - 5. No variance shall be issued which will have the overall impact of reducing safety standards or levels of service, or which will not comply with the Whatcom County Code.

- E. The Technical Administrator shall make a decision to approve or deny the variance within 20 calendar days of receiving complete information from the applicant relating to the request.
- F. An administrative variance to the Development Standards requires a fee that covers the full cost of variance review.

Section 107 - APPEALS

- A. The applicant may appeal any final decision of the Technical Administrator. The appeal shall be made to the TAC.
- B. The TAC shall have the authority to hear and recommend to the County Executive, in conformity with WCC 12.08.035 and the Whatcom County Development Standards, changes to any order, requirement, permit decision or determination made by the Technical Administrator in administering the Whatcom County Development Standards.
- C. An appeal must be filed with the Planning and Development Services Department in writing within 20 days of the action being appealed and the County must make a final decision regarding this appeal within 60 days of the filing.
- D. The cost of this appeals process shall be borne by the applicant. Staff time shall not be factored into this cost.

Section 108 – FINANCIAL RESPONSIBILITIES

The financial responsibility for making the improvements required by these Development Standards shall be upon the developer. Securities may be posted as set forth in these Development Standards and County Ordinances.

Section 109 – SPECIAL DISTRICTS

The Development Standards may identify or reference special districts, special management areas or subareas subject to individual, more restrictive standards. These districts shall be referenced specifically in each chapter and shall clearly be identified regarding the applicability of each requirement.

Section 110 - DEFINITIONS

Administrative Requirements. Minimum submittal requirements established in order to ensure compliance with the Development Standards, description of reporting methods and plan requirements with specified calculation methods, and other procedural requirements.

Exemptions. Construction or activities that are not subject to the Development Standards. Exemptions are allowed in order to recognize that there is a minimum level of impact below which it is not in the best interest of the County to regulate development activities. All activities that are exempt from the application of technical requirements shall be clearly delineated in each Chapter.

Performance Requirements. An outcome that is, at a minimum, equivalent to the outcome (including environmental protection and public safety) produced by the strict application of the Development Standards. Performance requirements may be met with innovative development designs through the administrative variance process.

Regulatory Authority. The Whatcom County Code that specifically sanctions adoption of a certain Development Standard. No Development Standard can be established unless the regulatory authority for approval of that Development Standard is clearly identified.

Technical Administrator. A qualified professional who is responsible for making administrative decisions related to each specified chapter or section of the Development Standards in accordance with the provisions established herein. The Technical Administrator shall be specified by position title, but may delegate specific responsibilities to other individuals within the area of expertise or responsibility associated with that person's position.

Technical Advisory Committee (TAC). An appointed body that reviews proposed development standards, reviews appeals of decisions made by the Technical Administrator, and makes recommendations to the County Executive. The TAC is comprised of seven voluntary members appointed by the County Executive and approved by the County Council. The TAC shall include a licensed and practicing land surveyor and three licensed and practicing civil engineers. At least five members of the TAC shall be licensed or certified practicing professionals in the areas under review.

Technical Requirements. Minimum technical requirements, dimensional requirements, and details for the implementation of a Whatcom County Code.