

**2019**

**BIANNUAL CODE AMENDMENTS**

**CLARK COUNTY  
PLANNING COMMISSION**

**HEARING DATE: JANUARY 16, 2020**

**STAFF REPORT  
INDEX OF PROPOSED AMENDMENTS  
PROPOSED TEXT CHANGES**

<b>BI-ANNUAL CODE CHANGE ITEMS – FALL 2019</b>			
No.		Title/Chapter/Section	Description
<b>Scrivener's Errors</b>			
1		Section 40.260.115.E.5.(a)	In the Marijuana Facilities sign standards, amend the reference to reflect the correct RCW and indicate the size of signs in square inches instead of square feet to be consistent with the RCW
<b>Reference Updates</b>			
2		40.100.070 Definitions	Update the County's definition of solid waste to reflect the change from WAC 173-304-100 to WAC 173-350
3		40.260.155, Figure 50.260.155-3	Update a reference to a changed Standard Details Drawing number in the Narrow Lot Standards
4		40.310.010.B	Amend the sign code section to refer to Highway 99, marijuana, and mixed use code sections that have unique requirements
5		40.500.010.B.3	Remove an outdated reference to the hearing examiner as the delegated authority to conduct developer agreement hearings
6		40.560.020.E	In the Concomitant Rezone Agreements section, remove an outdated redundant process requirement
<b>Clarifications</b>			
7		40.200.070.A	Amend the Exceptions to Setback Requirements section to allow building projections outside of building and development envelopes subject to limitations
8		40.260.155.C.1.h	Amend the Narrow Lot Standards to clarify that building envelopes should reflect building setbacks, not all projections
9		40.100.070, Definitions	Add a definition of "garage sale"
10		40.510.040.E & G	In the Type IV process section regarding public notice, include the "manner of making comments" within the published notice
<b>Minor Policy Changes</b>			
11		14.05, 14.06, 14.08, 14.12, and 15.12 (Building and Fire codes)	Amend Chapters 14.05, 14.06, 14.08, 14.12, and 15.12 to remove references to separate Building, Plumbing and Fire Boards of Appeals.
12		40.260.020.C.6	In the Urban Accessory Dwelling Unit provisions, remove the R1-10 and R1-20 zoning requirement to allow larger size ADU's on larger lots, regardless of zoning
13		40.260.155.C.6.e	Specify that Narrow Lot alleys less than 20 feet wide shall be private, not public

14		40.410.010, 020, and 030	Provide a number of clarifications and modifications to the Critical Aquifer Recharge Area code
15		40.540.120	Allow a reduced process, and establish criteria for minor plat alterations
16		Section 4.2, Activity Centers, of Appendix F, the Highway 99 Overlay District Standards	Allow commercial uses on a select few Residentially-zoned parcels within Activity Centers

# **STAFF REPORT AND RECOMMENDATION TO THE CLARK COUNTY PLANNING COMMISSION**

**TO:** Clark County Planning Commission

**FROM:** Jan Bazala, Planner II

**PREPARED BY:** Jan Bazala, extension 4499

**SUBJECT:** Bi-Annual Code Changes – Fall, 2019

**PC HEARING**

**DATE:** January 16, 2020

**REPORT  
PREPARATION**

**DATE:** December 30, 2019

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## **I. SUMMARY**

Proposed are 16 main items in the Fall 2019 Biannual code amendments, which will amend 23 different code sections in Titles 14, 15 and 40. The proposed changes are presented in Attachment "A" for the Planning Commission's consideration and recommendation to the Board of County Councilors.

## **II. BACKGROUND**

Periodically staff "batch" minor amendments to the Clark County Code to correct scrivener's errors, update references, clarify standards and codify interpretations of code language brought about by management decisions, hearings examiner decisions, or legal staff recommendations.

## **III. PROCESS**

Some of the code changes have been identified by staff in the course of review of various permit applications. Others are "clean ups" of prior code amendments, and some have been requested by the development community.

## **IV. ANALYSIS**

Should the code changes be approved, several sections of Titles 14, 15, and 40, including one section of the Highway 99 Overlay standards, will be revised.

Included within Attachment "A" is the entire text of the changes, along with a "rationale" section which explains why the change is proposed. The changes are divided into four sections:

- **Scrivener's errors**, which correct obvious mistakes;
- **Reference updates**, which provide follow-up corrections from other law or code changes;
- **Clarifications**, which are intended to make existing code language more clear; and,
- **Minor policy changes**, which may have impacts to existing county policy.

## **V. COMMUNITY OUTREACH**

The proposed changes were reviewed by the Development and Engineering Advisory Board (DEAB) at their November monthly meeting.

The Planning Commission held a work session on January 2, 2020.

A SEPA determination of non-significance was published in the "Columbian" newspaper on December 23, 2019.

A legal notice of the Planning Commission public hearing was published in the "Columbian" and "Reflector" newspapers on January 1, 2020.

## **VI. RECOMMENDATION**

Staff recommends the Planning Commission favorably consider this proposal and forward a recommendation of APPROVAL to the Board of County Councilors.

Enclosures:

- Bi-Annual Code Index – Fall 2019
- Attachment "A" – text of code changes
- IBC, IRC, IMC and IFC appeals code sections

1 **2019 Fall Biannual Code Amendments**

2 **Planning Commission review**

3

4 Periodically staff "batch" minor amendments to the Clark County Code to correct scrivener's  
5 errors, update references, clarify standards, and to make some minor policy changes. These  
6 batches of code changes are commonly known as "Biannual Code Amendments". The following  
7 changes to Titles 14, 15, and 40 are proposed to be made.

8 Language proposed to be deleted is ~~struck through~~. Language proposed to be added is double-  
9 underlined.

10 **SCRIVENER'S ERRORS**

11

12 **1. Section 40.260.115(E)(5)(a) Marijuana Facilities – amend the reference to reflect the**  
13 **correct RCW and indicate the size of signs in square inches instead of square feet to be**  
14 **consistent with the RCW.**

15 40.260.115(E)(5) Signs.

16 a. In accordance with RCW ~~69.50.357(3)~~ 69.50.369(2), licensed marijuana  
17 retailers shall not display any signage in a window, on a door, or on the outside  
18 of the premises of a retail outlet that is visible to the general public from a  
19 public right-of-way, other than a single sign no larger than ~~twelve (12) square~~  
20 ~~feet~~ one thousand six hundred square inches identifying the retail outlet by the  
21 licensee's business or trade name.

22 b. No signs for production and processing facilities are allowed.

23 **Rationale:** The code currently references an incorrect RCW that needs to be corrected, and the  
24 size of the sign is expressed in the code in square feet and not square inches, as indicated in the  
25 RCW.

26 **REFERENCE UPDATES AND "CLEAN-UPS" FROM OTHER CODE CHANGES**

27

28 **2. Section 40.100.070 Definitions- Update the County's definition of solid waste to**  
29 **reflect the change from WAC 173-304-100 to WAC 173-350.**

Solid waste	"Solid waste" means all <del>putrescible and non-putrescible solid and semi-solid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction waste, abandoned vehicles or parts thereof, and discarded commodities. This includes all liquid, solid and semi-solid materials that are not the primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes, but is not</del>
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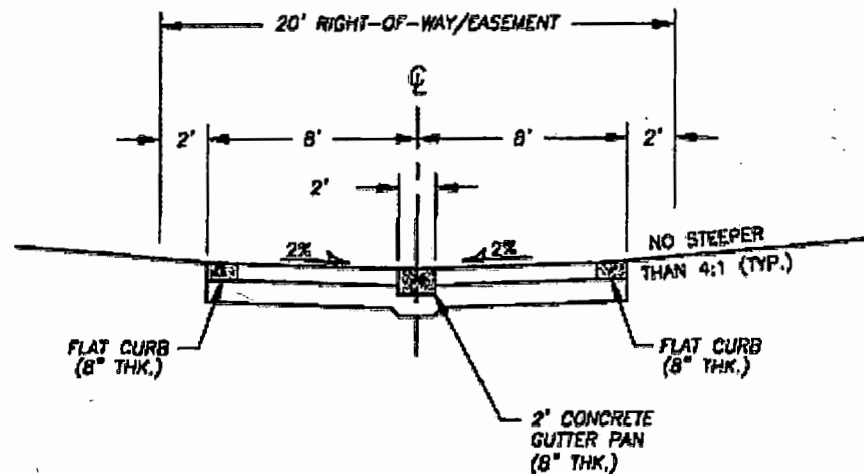
limited to, sludge from wastewater treatment plants and seepage, septic tanks, wood waste, dangerous waste, and problem wastes WAC 173-304-100).

"Solid waste," "waste materials," or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, contaminated soils and contaminated dredged material, and recyclable materials. See WAC 173-350-021 to determine if a material is solid waste.

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2 **Rationale:** In 1999 WAC 173-304 was replaced by WAC 173-350. At this time 173-304 only  
3 applies to those landfills that closed under the 304 requirements in late 1990s to very early  
4 2000s. They are not applicable for current land use and or development. Contaminated soils,  
5 contaminated dredge materials, and recycled materials are additions to the existing list.  
6

7 **3. Figure 40.260.155-3 - Update the reference to a Standard Details Manual drawing in**  
8 **the narrow lot standards and clarify that only the pavement structural specs of an urban**  
9 **alley apply to the narrow lot alley detail.**



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**Figure 40.260.155-3 Narrow Lot Alley Cross-Section**

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Cross-slope details and concrete curb and pan shown are optional. Alternate cross-slope details may be approved; provided, the minimum pavement width and right-of-way is provided. Construction details shall meet the minimum requirements of Drawing 19 of the Standard Details Manual. Structural pavement sections shall meet the minimum requirements for an Urban Alley drawing in the Standard Details Manual.

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1 **4. Section 40.310(B)– Amend the sign code section to refer to other sign standards in**  
2 **the Highway 99, marijuana, and mixed use code sections that have unique requirements.**

3 **40.310.010 Sign Standards**

4 A. Purpose.

5 The purpose of this section is to add sign requirements common to the several zoning  
6 districts for the preservation of the character of the areas, structures, and uses; the  
7 needs of residential, commercial, industrial and agricultural potential; the need for  
8 healthful, safe, and convenient use of all lands, and the conservation and promulgation  
9 of values and resources. These requirements include, but are not limited to, standards  
10 relating to the number, size, placement and physical characteristics of signs. In addition,  
11 the purpose of this section is to provide an effective administrative process for the  
12 review and enforcement of these standards to protect and improve the aesthetic quality  
13 of the community.

14 B. Scope.

15 The signage covered under this section includes, but is not limited to: all commercial  
16 signs, and wall graphics; professional and business signs; home business signs;  
17 banners, balloons, flags and other temporary signage. It is not intended to regulate  
18 traffic signs or other governmental street signs, doorway identification nameplates,  
19 holiday decorations, informational signs pursuant to Chapter 13.20, temporary interior  
20 window signage or memorial signs. Also, it is not intended to regulate signage which is  
21 not visible from adjacent properties or from public rights-of-way. Further, it is not  
22 intended to regulate the display of the national or state flag.

23 Three other sections of Clark County Code contain additional requirements for sign  
24 codes, namely: 1) CCC 40.260.115(E)(5), which pertains to marijuana facilities, 2)  
25 Appendix A (F), which pertains to sign standards for mixed use development, and 3)  
26 Appendix F, Chapter 8.4, which pertains to sign standards for development in the  
27 Highway 99 Overlay District.

28 **Rationale:** Now that marijuana facilities are allowed in the County, it's important to clarify that  
29 such facilities (along with Mixed Use developments and Highway 99 overlay areas) have  
30 separate sign requirements that the reader should be aware of.

31 **5. Section 40.500.010(B)(3) – In the Development Approvals Timeline section, remove**  
32 **an outdated reference which states the hearing examiner conducts hearings for**  
33 **development agreements.**

34 40.500.010(B)(3). Developer Agreements. Notwithstanding the foregoing, Council may approve  
35 a developer agreement under RCW 36.70B.170 through 36.70B.240 providing for a longer  
36 approval duration per Section 40.550.030. ~~The hearing examiner is delegated authority to~~



1 ~~conduct hearings and make recommendations for developer agreements, but final approval~~  
2 ~~thereof is reserved to Council.~~

3 **Rationale:** On November 12, 2019, county council approved CPZ2019-00029 Development  
4 Agreement Procedures, which will add a new section CCC 40.550.030 (effective in February of  
5 2020) to create a procedure for application, review, consideration, and conditioning of certain  
6 development projects. The second sentence in the code section above is now moot as only the  
7 county council is involved in developer's agreements, not the hearings examiner. Therefore, the  
8 second sentence in the code above should be deleted.

9 **6. Section 40.560.020(E). In the section dealing with the release of concomitant**  
10 **rezone agreements, delete a sentence that has become moot.**

11 40.560.020(E). Release of Concomitant Rezone Agreements.

12 Upon petition by the property owner, a concomitant rezone covenant may be fully or partially  
13 released, or modified, by the County Council following a public hearing with notice as prescribed  
14 by Section 40.510.040(E) and in accordance with the criteria set forth in this section; ~~provided,~~  
15 ~~that if no development has occurred pursuant to a covenant entered into prior to January 1,~~  
16 ~~1995, such covenant may be fully released and the property subjected to all applicable standards~~  
17 ~~and provisions of the current zoning ordinance by the County Council at a public meeting if it~~  
18 ~~appears that no substantive issues are raised under the following criteria.~~

19 **Rationale:** In ORD. 2019-05-07, this section of code was amended to change the review body  
20 from Hearing Examiner to County Council in the first sentence. The second sentence is now  
21 moot as all changes to a concomitant rezone agreement are now heard by the council. The  
22 second sentence should be deleted.

23 **CLARIFICATIONS**

24  
25 **7. Amend Section 40.200.070.A7, Exceptions to Setback Requirements, to clarify what**  
26 **can and what can't project outside of building or development envelopes**

27 **40.200.070 Exceptions to Setback Requirements**

28 A. ~~Projections into Required Setbacks. (See also Section 40.320.010(C)(9).) Also see Sections~~  
29 ~~40.200.070.A.7, 40.200.070.A.8, and 40.320.010(C)(9) for limitations.~~

30 Certain architectural features and structures may project into required setbacks, subject to  
31 applicable building and fire codes as follows:

32 1. Front Setback.

33 a. Fire escapes, porches, balconies, decks, landing places, or outside stairways over  
34 thirty (30) inches in height may project not more than six (6) feet into the required  
35 front setback, provided such features are open-sided and are uncovered.

- 1 b. Projections including bay windows, overhanging breakfast nooks, cornices, canopies,  
2 eaves, belt courses, sills or other similar architectural features and fireplaces may  
3 extend up to two (2) feet into the required setback.
- 4 c. Porches, decks, landings or stairways not more than thirty (30) inches in height above  
5 finished grade are allowed to within eighteen (18) inches of the front property line,  
6 provided such features are open-sided and uncovered.

7 2. Rear Setback.

- 8 a. Projections such as bay windows and overhanging breakfast nooks may extend up to  
9 two (2) feet into the required setback, provided such features are limited to ten (10)  
10 horizontal feet per projection and limited to thirty percent (30%) of the linear  
11 dimension of the rear building elevation.
- 12 b. Cornices, canopies, eaves, belt courses, sills or other similar architectural features and  
13 fireplaces may extend up to two (2) feet into the required setback.
- 14 c. Porches, decks, landings or stairways not more than thirty (30) inches in height above  
15 finished grade are allowed to within eighteen (18) inches of the rear property line,  
16 provided such features are open-sided, and uncovered.

17 3. Side Setback.

- 18 a. The following features and structures may project into the required side setback not  
19 more than two (2) feet; provided, that no portion of the structure may be less than  
20 three (3) feet to the property line:
- 21 (1) In the R1-5 and R1-6 zones only, projections such as bay windows and  
22 overhanging breakfast nooks may extend up to two (2) feet into the required  
23 setback, provided such features are limited to ten (10) horizontal feet per  
24 projection and limited to thirty percent (30%) of the linear dimension of the side  
25 building elevation;
- 26 (2) Cornices, canopies, eaves, belt courses, sills or other similar architectural  
27 features; and
- 28 (3) Fireplaces.
- 29 b. Porches, decks, landings or stairways not more than thirty (30) inches in height above  
30 finished grade are allowed to within eighteen (18) inches of the side property line,  
31 provided such features are open-sided, and uncovered.

32 4. Garden Sheds, Gazebos and Play Houses. One (1) garden shed, or one (1) gazebo or  
33 one (1) play house meeting all of the following requirements may be located in either  
34 the side or rear setback of single-family residential districts (R1-5, R1-6, R1-7.5, R1-10  
35 and R1-20):

- 36 a. The structure contains no more than two hundred (200) square feet of floor area, with  
37 overhangs that do not exceed sixteen (16) inches;



- b. The structure is set back from property lines a minimum of two (2) feet;
- c. The floor elevation is eighteen (18) inches or less in height;
- d. The structure is less than twelve (12) feet in height;
- e. Roof drainage is contained on site; and
- f. No utilities are connected to the structure.
- g. If the structure is located within a utility easement, the property owner must obtain a waiver letter from all applicable utilities.

5. Aboveground rainwater cisterns in all urban residential districts are allowed reduced setbacks subject to the following:

- a. Cisterns six (6) feet in height or less are allowed a setback of three (3) feet to an interior side, or rear property line;
- b. Other reductions from standard setbacks shall be limited to the height of the cistern. For example, a cistern eight (8) feet high is allowed a setback of no less than eight (8) feet to a rear property line in the R1-20 zone; provided, that the maximum height of any cistern under this provision shall not exceed twelve (12) feet;
- c. If the cistern is located within a utility easement, the property owner must obtain a waiver letter from all applicable utilities;
- d. Appropriate design and support to ensure the cistern does not affect on-site or off-site foundations, retaining walls, or other structures, are required;
- e. All other applicable building and plumbing codes shall apply.

6. Aboveground utilities.

~~7. The above exceptions do not apply to development envelopes or landscape buffers. (See Section 40.320.010(C)(9) and Chapter 40.450.)~~

7. The allowed projections noted above may not apply to landscape buffers. (See Section 40.320.010(C)(9).)

8. The allowed projections noted above apply to building and development envelopes except when limited by the following:

- a. The applicable envelope line reflects a critical area or an easement;
- b. The applicable envelope line reflects a landscape buffer, except as allowed by Section 40.320.010.C.9; and,
- c. Information on a site plan or plat specifically prohibits such projections.

1 **Rationale:** This code section (Exceptions to Setback Requirements) outlines what structures,  
2 and parts of structures can be built within established setbacks. Setbacks apply to all properties  
3 in the County, whether the lot has been platted or not.

4 During the platting or site plan review process, building or development envelopes are  
5 sometimes established on final plats and site plans to reflect setbacks, easements, and/or critical  
6 areas, to provide future clarity on issues related to setbacks and other "no-build" areas.

7 Subsection 40.200.070.A.7 currently disallows the exceptions to setbacks noted in Sections  
8 40.200.070.A.1 through A.6 for development envelopes; however, as previously noted, in many  
9 cases envelope lines are established on a plat based on standard setbacks, and for which the  
10 exceptions in 40.200.070.A.1-6 are intended to apply.

11 The proposed amendment should eliminate a good deal of confusion, as well as the need for  
12 some plat alterations to fix unintended consequences of envelopes on plats.

13 **8. Amend the Narrow Lot Standards Section 40.260.155.C.1.h to clarify that building**  
14 **envelopes should reflect building setbacks, not all projections.**

15 C. Narrow Lot Development Standards.

- 16 1. A site plan is required that demonstrates that utilities, driveways, street trees, and other  
17 features have been located and designed to minimize conflicts with one another. The  
18 site plan shall be submitted with the preliminary land division application and shall be  
19 incorporated into the final construction plan set. The site plan shall show, at a minimum,  
20 all of the following features:

21 \*\*\*\*\*

- 22 h. Building envelopes which encompass all projections. The envelopes shall reflect the  
23 final setbacks for each lot; and

24 \*\*\*\*\*

25 **Rationale:** Changing this section to have envelopes that reflect setbacks, not projections will be  
26 consistent with the clarifications to Exceptions to Setbacks section in #7 above.

27 **9. 40.100.070, Definitions - Add a definition of "garage sale".**

28 **"Garage sale" means a sale of used household or personal articles such as furniture, tools, or**  
29 **clothing, held on the seller's own premises. This includes yard sales, estate sales, moving sales,**  
30 **and similar.**

31 **Rationale:** The addition of this definition will clarify the types of activities that are regulated under  
32 the Garage Sales section (CCC 40.260.090).

33 **10. In the Type IV process section regarding public notice, include the "manner of**  
34 **making comments" within the published notice.**

35 **40.510.040 Type IV Process – Legislative Decisions**

1 40.510.040(E)(1)(c). Publish in a newspaper of general circulation a summary of the notice,  
2 including the date, time, and place of the hearing, manner of making comments, staff contact  
3 information, and a summary of the subject of the Type IV process.

4 40.510.040(E)(2)(a). Publish in a newspaper of general circulation a summary of the notice,  
5 including the date, time, and place of the hearing, manner of making comments, staff contact  
6 information, and a summary of the subject of the Type IV process pursuant to Section  
7 40.510.040(E)(1)(a).

8 40.510.040(G)(3)(d). Publish in a newspaper of general circulation a summary of the notice,  
9 including the date, time, and place of the hearing, manner of making comments, staff contact  
10 information, and a summary of the subject of the Type IV process pursuant to Section  
11 40.510.040(E)(1)(a); and

12 **Rationale:** In various other sections of County code dealing with public notice requirements, the  
13 "manner of making public comments" on the proposal is included. The Type IV process notice  
14 requirements has no such provision; adding it will make this consistent with GMA requirements  
15 and other County notice requirements.

16 **MINOR POLICY ITEMS**

17  
18 **11. Amend Chapters 14.05, 14.06, 14.08, 14.12, and 15.12 (Building and Fire codes) to**  
19 **remove references to separate Building, Plumbing and Fire Boards of Appeals. Instead,**  
20 **defer to the provisions in adopted national codes regarding appeals.**

21 **~~14.05.112.3 Board of appeals.~~**

22 ~~Section 112.3 (Qualifications) of the IBC shall be replaced with the following:~~

23 ~~Qualifications. The seven member Board of Appeals shall consist of one person from each of the~~  
24 ~~following backgrounds: (1) Agriculture; (2) Architecture; (3) Engineering; (4) General~~  
25 ~~Construction; (5) Residential Construction; (6) and two others chosen at large.~~

26 **~~14.06.112.3 Board of appeals.~~**

27 ~~Section R112.3 (Qualifications) of the IRC shall be replaced with the following:~~

28 ~~Qualifications. The seven member Board of Appeals shall consist of one person from each of the~~  
29 ~~following backgrounds: (1) Agriculture; (2) Architecture; (3) Engineering; (4) General~~  
30 ~~Construction; (5) Residential Construction; (6) and two others chosen at large.~~

31 **~~14.08.221 Plumbing board of appeals.~~**

32 ~~In order to determine the suitability of alternate materials and methods of construction and to~~  
33 ~~provide for reasonable interpretations of the provisions of this code, there is created a board of~~  
34 ~~appeals, to be known as the Clark County plumbing and mechanical board of appeals, consisting~~  
35 ~~of seven (7) members who are qualified by experience and training to pass upon matters~~  
36 ~~pertaining to plumbing construction. The administrative authority shall be an ex-officio member~~  
37 ~~and shall act as secretary of the board. The board of appeals shall be appointed by the board of~~



1 ~~county councilors and shall hold office at its pleasure. The board of appeals shall adopt~~  
2 ~~reasonable rules and regulations for conducting its investigations, and shall render all decisions~~  
3 ~~and findings in writing to the administrative authority with a duplicate copy to the appellant and~~  
4 ~~may recommend to the board of county councilors such new legislation as is consistent~~  
5 ~~therewith.~~

6 ~~The board of appeals shall schedule a regular meeting date of each month.~~

7 **14.08.231 Appeals.**

8 ~~Appeals shall be presented in writing to the secretary of the board of appeals who shall notify the~~  
9 ~~chairman or acting chairman of the board of the pending appeal. When a special meeting is~~  
10 ~~requested the chairman or acting chairman, or the secretary acting at the chairman's direction,~~  
11 ~~shall poll the members of the board and arrange for the earliest possible meeting time at which a~~  
12 ~~majority of the board can be present. The board shall have the duty of expediting the appeal~~  
13 ~~procedure with particular attention to the matters brought before it at any special meeting.~~

14 **14.12.090 Amendment of Section 109 IMC.**

15 Section 109 IMC is amended to read:

16 ~~BOARD OF APPEAL~~

17 ~~Sec. 109 Board created.~~

18 Sections 109.2, 109.3, 109.5, and 109.6 (Means of Appeal) of the IMC are replaced with the  
19 following:

20 ~~(a) In order to determine the suitability of alternate materials and methods of construction and to~~  
21 ~~provide for reasonable interpretations of the provisions of this code, there shall be and is hereby~~  
22 ~~created a Board of Appeals, to be known as the Clark County Plumbing and Mechanical Board of~~  
23 ~~Appeals, consisting of seven members who are qualified by experience and training to pass~~  
24 ~~upon matters pertaining to Mechanical Code construction. The Clark County Plumbing and~~  
25 ~~Mechanical Code Board of Appeals shall consist of the same membership as, and shall be the~~  
26 ~~same Board as the Clark County Plumbing Board of Appeals as established in Section~~  
27 ~~14.08.221. The Building Official shall be an ex-officio member and shall be appointed by the~~  
28 ~~Board of County Councilors and shall act as secretary of the board. The board of appeals shall~~  
29 ~~be appointed by the board of councilors and shall hold office at its pleasure. The Board of~~  
30 ~~Appeals shall adopt reasonable rules and regulations for conducting its investigations and shall~~  
31 ~~render all decisions and findings in writing to the Building Official with a duplicate copy to the~~  
32 ~~appellant and may recommend to the board of county councilors such new legislation as is~~  
33 ~~consistent therewith.~~

34 ~~The Board of Appeals shall schedule a regular meeting date for each month.~~

35 ~~(b) Appeals. Appeals shall be presented in writing to the secretary of the board of appeals who~~  
36 ~~shall forthwith notify the chairman or acting chairman of the board of the pending appeal. When a~~  
37 ~~special meeting is requested, the chairman or acting chairman, or the secretary acting at the~~  
38 ~~chairman's direction, shall forthwith poll the members of the board and arrange for the earliest~~



1 possible meeting time at which a majority of the board can be present. The board shall have the  
2 duty of expediting the appeal procedure with particular attention to the matters brought before it  
3 at any special meeting. appeals may be made to the same body and under the same processes  
4 used to hear appeals of building and fire protection decisions.

## 5 Title 15

### 6 FIRE PREVENTION

#### 7 Chapters:

8 **15.12 Clark County Fire Code**

9 **15.13 Windland Urban Interface/Intermix Ordinance**

10 **15.14 Fire Inspection and Fees (REPEALED)**

11 **15.14A Fees (REPEALED)**

12 **15.16 Minimum Fire Flow—Exceptions**

#### 13 **15.12.108.1 Amendment of Section 108.1.**

14 Section 108.1 of the International Fire Code shall be amended to read as follows:

15 ~~**108.1 Board of appeals established.** In order to determine the suitability of alternate materials  
16 and type of construction to provide for reasonable interpretations of the provisions of this code,~~

17 ~~there shall be and hereby is created a Board of Appeals, consisting of five members who are  
18 qualified by experience and training to pass upon pertinent matters. The Fire Marshal shall be an  
19 ex-officio member and shall act as Secretary of the Board. The Board of Appeals shall be  
20 appointed by the Board of County Councilors and shall hold office at their pleasure. The Board of  
21 Appeals shall consist of one member of the Fire Service, one member of the Insurance Industry,  
22 one member of the Architects Association, one member of the Mechanical Engineers Association  
23 and one member of the Building Code Board of Appeals. The Board shall adopt reasonable rules  
24 and regulations for conducting its investigations and shall render all decisions and findings in  
25 writing to the Fire Marshal with a duplicate copy to the appellant and may recommend to the  
26 Board of County Councilors such new legislation as is consistent therewith.~~

27 ~~Appeals shall be presented in writing to the Secretary of the Board of Appeals who shall forthwith  
28 notify the chairman or acting chairman of the Board of the pending appeal. When a meeting is  
29 requested, the chairman or acting chairman, or the secretary acting at the chairman's direction,  
30 shall forthwith poll the members of the Board and arrange for the earliest possible meeting time,  
31 not to exceed ten (10) days from the date of the filing of the appeal at which a majority of the  
32 Board can be present.~~

33 **Rationale:** The Clark County Building and Fire codes mostly adopt national building and fire  
34 codes; those parts of these national codes that the County has chosen to not adopt, or otherwise  
35 customize are called out in certain sections of Titles 14 and 15. The particular Clark County  
36 code sections that are proposed to be mostly removed are exceptions to the standard appeals  
37 provisions of the IBC (International Building Code), IRC (International Residential Code), IMC  
38 (International Mechanical Code), UPC (Unified Plumbing Code) and the International Fire Code.  
39 These County exceptions currently dictate three separate building, plumbing and fire appeals

1 boards. Each of the three different appeals boards has different membership requirements. In  
2 practice, these boards do not exist, as it has proven difficult to fill the numerous positions.

3 By eliminating the current exceptions, the County would adopt by reference the appeal  
4 procedures in those codes which are more general in nature and allow flexibility in establishing  
5 one unified appeals board with members having experience spanning the various disciplines.

6 The only partial exceptions proposed to remain are to Sections 109.2, 109.3, 109.5, and 109.6  
7 (Means of Appeal) of the IMC, as these particular IMC sections are somewhat specific  
8 regarding membership requirements and process, which the County would like to avoid in order  
9 to maintain flexibility as to how an appeals board will function.

10 Copies of the applicable national codes are included as attachments.

11 **12. 40.260.020.C.6. - In the Urban Accessory Dwelling Unit provisions, remove the R1-**  
12 **10 and R1-20 zoning requirement to allow larger size ADU's on larger lots, regardless of**  
13 **zoning.**

14  
15 C. Development Standards.

16 6. Allowable Size.

17 The total gross floor area of an ADU shall not exceed eight hundred (800) square  
18 feet or forty percent (40%) of the area of the primary dwelling's living area,  
19 whichever is less, with the following exceptions for large lots with large primary  
20 dwellings or primary dwellings with basements:

21 a. On lots zoned ~~R1-10~~ that are at least ten thousand (10,000) square feet, the  
22 maximum square footage of an ADU is one thousand (1,000) square feet, or  
23 forty percent (40%) of the area of the primary dwelling's living area, whichever is  
24 less; and

25 b. On lots zoned ~~R1-20~~ that are at least twenty thousand (20,000) square feet, the  
26 maximum square footage of an ADU is fifteen hundred (1,500) square feet, or  
27 forty percent (40%) of the area of the primary dwelling's living area, whichever is  
28 less.

29 **Rationale:** In most zones, Urban ADUs are limited to 800 sf of 40% of the main dwelling area.  
30 Currently, in the R1-10 and R1-20 zoning districts only, larger size ADUs are allowed if the lot  
31 meets either the 10,000 sf or 20,000 sf minimum lot size.

32 However, there seems to be little reason to not extend the slightly larger ADU sizes on these  
33 larger lots even in the R1-5, 6 and 7.5 zones if the lots meet the 10 or 20,000 sf lot size.

34  
35 **13. 40.260.155.C.6.e - In the Narrow Lot Development standards, require that**  
36 **alleys less than 20 feet wide must be private, not public.**

37  
38 40.260.155 Narrow Lot Development Standards

39 C. Narrow Lot Development Standards.

40 6. Alleys and Lots with Alley Access.



- a. Where provided, alleys shall meet the minimum dimensional requirements of Figure 40.260.155-3. A minimum of twenty-four (24) feet of clear area (unobstructed by fences or other structures) with an unobstructed vertical clearance of not less than 13.5 feet shall be provided. Alleys with a paved width of less than 20 feet wide shall be privately owned and maintained.
- b. When garbage and recycling collection is proposed to be from an alley, the ability of collection vehicles to maneuver safely to all points of collection shall be demonstrated, based on a thirty-five (35) foot long by ten (10) foot wide vehicle.
- c. All lots adjacent to an alley shall provide access to the garage or parking space from the alley, not from an adjacent street.
- d. Residences with access from alleys shall be oriented to face the public or private street, not the alley.
- e. Alleys serving narrow lots under this section shall connect with a public or private street at both ends, unless otherwise approved by the public works director.

**Rationale:** Under the Narrow Lot standards, alleys can be as narrow as 16 feet since they are not the primary means of access; however, such narrow alleys can be expensive to maintain by the County, thus they should be privately owned and maintained. Additional references have been made to exclude any structure, and to maintain the standard vertical fire access standard of 13.5 feet in the 24 foot wide clear area.

**14. Revisions to the Critical Aquifer Recharge Area (CARA) code sections 40.410.010, 020, and 030.**

**40.410.010 Introduction**

**A. Purpose.**

This chapter is intended to protect public health, safety, and welfare by preventing degradation, and where possible, enhance the quality and quantity of groundwater which will be, or might likely be, used in the future for drinking water or business purposes. This will be accomplished by limiting potential contaminants within designated critical aquifer recharge areas (CARAs). The requirements of this chapter are intended to fulfill obligations of state law under the Growth Management Act, Chapter 36.70A RCW; the Public Water Systems Penalties and Compliance, Chapter 70.119A RCW; the Washington State Wellhead Protection Program and the Public Water Supplies, Chapter 246-290 WAC; the Dangerous Waste Regulations, Chapter 173-303 WAC; the Water Quality Standards for Groundwater of the State of Washington, Chapter 173-200 WAC; the Underground Injection Control Program, Chapter 173-218 WAC; and the Regulation of Public Ground Waters, Chapter 90.48 RCW.

**B. Applicability and Exemptions.**

1. **Applicability.** This chapter applies to all critical aquifer recharge areas as defined in Section 40.410.010(C). Parcels that are partly within Category I and Category

1           It shall be subject to the Category I provisions in this chapter. Parcels that are  
2           partly inside Category II, but outside Category I, shall be subject to the Category  
3           II provisions in this chapter. Where pre-applications are required for projects,  
4           applicants are encouraged to use the pre-application process for pre-screening  
5           CARA exemptions.

6           2. Exempt Activities and uses. The following activities and uses do not require a CARA  
7           permit:

- 8           a. Existing activities that currently and legally existed on July 31, 1997;
- 9           b. All residential uses other than those having activities covered by Section  
10           40.410.020(A);
- 11           c. Group A public water system source development and associated infrastructure;
- 12           d. Public water supply aquifer storage and recovery (ASR) facilities;
- 13           e. Public water pipelines;
- 14           f. Public water supply storage structures;
- 15           g. Other uses not listed in Sections 40.410.020(A), (B) or (C); and
- 16           h. Activities already permitted and regulated by the state and or the Clark County Health  
17           Department to incorporate best management practices.
- 18           i. Any uses where containment is provided and approved by the Clark County building  
19           and fire departments.

20           3. The following underground storage tank (UST) systems and facilities, including any  
21           piping connected thereto, are exempt from the requirements of this chapter:

- 22           a. Any UST system holding hazardous wastes subject to Subtitle C of the Federal Solid  
23           Waste Disposal Act, or a mixture of such hazardous waste and other regulated  
24           substances;
- 25           b. Any wastewater treatment tank system that is part of a wastewater treatment facility  
26           regulated under Section 402 or 307(b) of the Clean Water Act;
- 27           c. Equipment or machinery that contains regulated substances for operational purposes  
28           such as hydraulic lift tanks and electrical equipment tanks;
- 29           d. Any UST system whose capacity is one hundred ten (110) gallons or less;
- 30           e. Any UST system that contains a de minimis concentration of regulated substances;
- 31           f. Any emergency spill or overflow containment UST system that is expeditiously emptied  
32           after use;
- 33           g. Farm or residential UST systems of one thousand one hundred (1,100) gallons or less  
34           capacity used for storing motor fuel for noncommercial purposes (i.e., not for resale);

- 1 h. UST systems used for storing heating oil for consumptive use on the premises where
- 2 stored; except that such systems which store in excess of one thousand one hundred
- 3 (1,100) gallons are subject to the release reporting requirements of WAC 173-360-
- 4 372;
- 5 i. Septic tanks;
- 6 j. Any pipeline facility (including gathering lines) regulated under:
  - 7 (1) The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.),
  - 8 or
  - 9 (2) The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et
  - 10 seq.), or
  - 11 (3) Which is an intrastate a pipeline facility regulated under state laws
  - 12 comparable to the provisions of the law referred to in Section
  - 13 40.410.010(B)(3)(j)(1) or (2) of this definition;
- 14 k. Surface impoundments, pits, ponds, or lagoons;
- 15 l. Stormwater or wastewater collection systems;
- 16 m. Class V injection wells for stormwater infiltration meeting current stormwater code
- 17 requirements, subject to Clark County review and approval;
- 18 ~~m. n.~~ Flow-through process tanks;
- 19 ~~n. o.~~ Liquid traps or associated gathering lines directly related to oil or gas production and
- 20 gathering operations; or
- 21 ~~o. p.~~ Storage tanks situated in an underground area (such as a basement, cellar, vault,
- 22 mineworking drift, shaft, or tunnel) if the storage tank is situated upon or above the
- 23 surface of the floor.

24 C. Definitions.

25 For the purposes of this chapter, the following definitions shall apply:

Category I CARA	"Category I CARA" means the highest priority critical aquifer recharge area, represented by the one-year time-of-travel for Group A water wells.
Category II CARA	"Category II CARA: means the primary critical aquifer recharge area, represented by the ten (10) year time-of-travel for Group A water wells. This area also consists of the unconsolidated sedimentary aquifer and the Troutdale gravel aquifer.

26 D. Map.

27 The map entitled Clark County, Washington Critical Aquifer Recharge Areas is adopted in the

28 twenty (20) year Clark County Comprehensive Growth Management Plan as best available

29 science. If a conflict exists between the map and on-site conditions, the on-site conditions shall

1 supersede the map. The county will update the CARA map as warranted by new information.  
2 GIS Map Store produces maps for free in the following link: Critical Areas Ordinances Maps.  
3

#### 4 **40.410.020 Standards**

5 A. Activities requiring a CARA permit in Categories I and II include the following:

- 6 1. Above- and below-ground storage tanks (tanks and pipes used to contain an  
7 accumulation of regulated substances (see Section 40.100.070)); unless containment is  
8 approved by the Clark County Building Department and the Fire Marshal;
- 9 2. Facilities that conduct biological research;
- 10 3. Boat repair shops;
- 11 4. Chemical research facilities;
- 12 5. Dry cleaners;
- 13 6. Gasoline service stations;
- 14 7. Pipelines not otherwise exempted from this chapter;
- 15 8. Printing and publishing shops (that use printing liquids);
- 16 9. Below-ground transformers and capacitors;
- 17 10. Sawmills (producing over ten thousand (10,000) board feet per day);
- 18 11. Solid waste handling and processing;
- 19 12. Vehicle repair, recycling, and recyclable materials – automotive;
- 20 13. Funeral services;
- 21 14. Furniture stripping;
- 22 15. Motor vehicle service garages (both private and government);
- 23 16. Photographic processing;
- 24 17. Chemical manufacture and reprocessing;
- 25 18. Creosote and asphalt manufacture and treatment;
- 26 19. Petroleum and petroleum products refining, including reprocessing;
- 27 20. Wood products preserving;
- 28 21. Golf course;

- 1 22. Regulated waste treatment, storage, disposal facilities that handle hazardous material;
- 2 23. ~~Medium quantity generators~~ Uses that generate a medium or large quantity of  
3 dangerous, acutely hazardous, and toxic extremely hazardous waste); and as defined  
4 by WAC Chapter 173;
- 5 24. ~~Large quantity generators (dangerous, acutely hazardous, and toxic extremely~~  
6 ~~hazardous waste).~~

7 B. Prohibited Activities in Category I.

8 The following activities are considered high-impact uses due to the probability and/or potential  
9 magnitude of their adverse effects on groundwater. These activities are prohibited in Category  
10 I, and require a permit for Category II:

- 11 1. Landfills;
- 12 2. Class V injection wells with the exception of wells for stormwater infiltration meeting  
13 current stormwater requirements, subject to Clark County review and approval;
- 14 3. Agricultural drainage wells;
- 15 4. Untreated sewage waste disposal wells;
- 16 5. Cesspools;
- 17 6. Industrial process water and disposal wells;
- 18 7. Radioactive waste disposal;
- 19 8. Radioactive disposal sites;
- 20 9. Surface mining operations; and
- 21 10. Electroplating activities.

22 C. Additional Standards.

23 The following additional standards apply in all CARAs:

- 24 1. Pesticides, herbicides and fertilizers shall be applied in accordance with federal law.
- 25 2. Vehicle repair and servicing.
  - 26 a. Vehicle repair and servicing must be conducted over impermeable pads and within a  
27 covered structure capable of withstanding normally expected weather conditions.  
28 Chemicals used in the process of vehicle repair and servicing must be stored in a  
29 manner that protects them from weather and provides containment if leaks occur.
  - 30 b. ~~No dry~~ Class V stormwater infiltration wells shall be are allowed in CARAs on sites for  
31 vehicle repair and servicing unless oil water separators are installed. Dry wells on the  
32 site prior to the facility establishment must be abandoned using techniques approved

1 by the Department of Ecology or an oil water separator will need to be installed prior  
2 to commencement of the proposed facility.

### 3 **40.410.030 Administration**

#### 4 **A: Permit Requirements.**

- 5 1. To receive a CARA permit required by Section 40.410.020, the applicant must  
6 demonstrate, through a Level 1 site evaluation report, how they will integrate necessary  
7 and appropriate best management practices (BMPs) to prevent degradation of  
8 groundwater. The applicant must also meet existing local, state, and federal laws and  
9 regulations.
- 10 2. If an applicant wants to avoid implementation of the standard, they must submit a Level 2  
11 site evaluation report and develop and implement a monitoring program that:
  - 12 a. Demonstrates how the applicant will prevent degradation to groundwater. The  
13 applicant must also meet existing local, state and federal laws and regulation; and
  - 14 b. Includes quarterly reporting to the department. The department will evaluate the  
15 monitoring program and may require periodic changes based on the monitoring  
16 results, new technology, and/or BMPs.
- 17 3. Applicants that agree to implement all relevant BMPs are exempt from preparing a site  
18 evaluation report. Applicants will demonstrate how the implementation of BMPs will be  
19 used to prevent degradation to groundwater and will submit quarterly monitoring reports  
20 to the department.

#### 21 **B. Level 1 Site Evaluation Report/Approval Criteria.**

- 22 1. For all proposed activities to be located in a critical aquifer recharge area, the site  
23 evaluation report shall include a Level 1 assessment by an engineer as defined in  
24 Section 40.386.010. The report will identify appropriate BMPs and show how they will  
25 prevent degradation of groundwater. Examples of pollution source controls are  
26 described in the Building Code, Fire Code, Clark County Stormwater Manual and  
27 Chapter 173-218 WAC, Underground Injection Control Program.
- 28 2. The report will identify how the applicant will follow the requirements of Chapter 90.48  
29 RCW (Water Pollution Control), Chapter 70.105D RCW (Model Toxics Control Act),  
30 Chapter 173-340 WAC, and the Dangerous Waste Regulations, Chapter 173-303 WAC,  
31 in the event hazardous material is released onto the ground or into groundwater.
- 32 3. The report will be reviewed by the department, in consultation with the Clark County  
33 Health Department and the local water purveyor, in conjunction with the same process  
34 as the primary development permit. If approved, the applicant will receive a CARA  
35 permit allowing the activity on the subject property.

#### 36 **C. Level 2 Site Evaluation Report/Approval Criteria.**

- 37 1. A qualified groundwater professional as defined in Section 40.100.070 will determine  
38 whether the proposed activity will have any adverse impacts on groundwater in CARAs.

1 This determination must be based upon the requirements of the Safe Drinking Water  
2 Act and the Wellhead Protection Area Program, Public Water Supplies, Chapter 246-  
3 290 WAC; Groundwater Quality Standards for the State of Washington, Chapter 173-  
4 200 WAC; and Dangerous Waste Regulations, Chapter 173-303 WAC. By this  
5 reference, Chapters 173-200, 173-218, 173-303, and 246-290 WAC, as written and  
6 hereafter updated, will be part of this chapter.

7 2. The Level 2 site evaluation report will include the following:

- 8 a. Identification of the proposed development plan, along with potential impacts (e.g., on-  
9 site septic systems and other on-site activities) that may adversely impact  
10 groundwater quality underlying or down gradient of the project or project area;
- 11 b. Site plans or diagrams at an appropriate scale (1:2,400 or one (1) inch to two hundred  
12 (200) feet) showing the location of abandoned and active wells, springs, and surface  
13 water bodies within one thousand (1,000) feet of the project or project area; and
- 14 c. A description of the geologic and hydrologic characteristics of the subject property  
15 including the following:

16 (1) Lithologic characteristics and stratigraphic relationships;

17 (2) Aquifer characteristics including recharge and discharge areas, depth to and  
18 static water-flow patterns, and an estimate of groundwater-flow velocity;

19 (3) Contaminant fate and transport including probable migration pathways and  
20 travel time of a potential contaminant release from the site through the  
21 unsaturated zone to the aquifer(s) and through the aquifer(s), and how the  
22 contaminant(s) may be attenuated within the unsaturated zone and the  
23 aquifer(s);

24 (4) Appropriate hydrogeologic cross-sections which depict lithology, stratigraphy,  
25 aquifer, units, potential or probable contaminant pathways from a chemical  
26 release, and rate of groundwater flow;

27 (5) Existing groundwater quality; and

28 ~~(6) A proposal for quarterly monitoring of groundwater quality to detect changes~~  
29 ~~and a description of corrective actions that will be taken if monitoring results~~  
30 ~~indicate contaminants from the site have entered the underlying aquifer(s).~~

31 3. The report will be reviewed by the department, in consultation with the Clark County  
32 Health Department and the local water purveyor, in conjunction with the same process  
33 as the primary development permit. If approved, the applicant will receive a CARA  
34 permit allowing the activity on the subject property.

35 D. Appeals.

36 Appeals of county decisions under this chapter may be filed under the provisions of Chapter  
37 40.510.

1 E. Penalties.

2 Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply  
3 with any of the provisions of this chapter shall be subject to penalties as defined in Chapter  
4 70.119A RCW; Chapters 173-200 and 246-290 WAC; Title 32 of this code; and other local,  
5 state, and federal laws.

6 **Rationale:** The Development and Engineering Advisory Board (DEAB) and County engineering  
7 staff created a subcommittee and met over the course of several months to address confusing  
8 and redundant requirements in the CARA code. The resulting changes should clarify  
9 longstanding issues and make it easier to implement.

10 The main changes to note in this section are:

11 1) Eliminate the need for a CARA permit for stormwater infiltration facilities. Requiring a CARA  
12 permit is redundant, due to the fact that these type of facilities must already meet the county's  
13 stormwater requirements, including pre-treatment; and, 2) Remove the requirement for quarterly  
14 monitoring reports for Level 2 Site evaluations. With all the other protections afforded by upgraded  
15 water quality provisions in County code, and with limited resources to evaluate monitoring reports,  
16 there is little, if any benefit to this requirement.

17 **15. Amend Section 40.540.120, Alteration and Vacation of Final Plats to allow for a**  
18 **Minor plat alteration process.**

19 **40.540.120 Alteration and Vacation of Final Plats**

20 A. Purpose.

21 The purpose of this section is to provide procedures and criteria for the alteration and vacation  
22 of recorded plats and short plats consistent with state law (RCW 58.17.215, 58.17.217). No  
23 recorded short plat or subdivision shall be changed in any respect, except as processed and  
24 approved through this section unless exempt from this chapter as indicated in Section  
25 40.540.020(B)(4). This process cannot be used to create additional lots, tracts or parcels.

26 B. Process.

- 27 1. Pre-Application Review. Pre-application review is required for all plat alteration or vacation  
28 applications in accordance to Section 40.510.020(A)- except for minor plat alterations  
29 submitted under Section 40.540.120.E.3.
- 30 2. Preliminary Approval. Preliminary approval of a plat alteration shall be considered a Type  
31 II application pursuant to Section 40.510.020 provided the following:
- 32 a. A public hearing shall be required for alteration proposals if a hearing is requested by  
33 any person within ~~twenty-one (21)~~ fourteen (15) days from the date the public  
34 comment period began or if the department determines that the public hearing is  
35 within the public interest. Where a public hearing is requested or required, the  
36 department shall consider the application a Type III process and refer the application  
37 to the hearing examiner for consideration. Notices required pursuant to Section  
38 40.510.030(E) shall include language notifying the public of the alterative hearing  
39 process provided for by this section; however, the four (4) foot by eight (8) foot notice  
40 sign as specified in Section 40.510.030(E)(3)(d) shall not be required.



- b. If a public hearing is not requested for a proposed alteration, the responsible official is delegated the authority to review and approve, approve with conditions or deny the application for preliminary approval. The final revised drawing or other alteration, if approved, shall be signed by the legislative body, without a public hearing.
  - c. All applications for vacation of a recorded plat shall be considered Type III applications and are not eligible for the alternative hearing process.
  - d. In addition to the notice requirements of Section 40.510.030(E), notice of the proposed alteration or vacation shall include all property owners holding an interest in the entire subdivision to be altered, including all phases.
3. Final Approval. Within seven (7) years of the date of preliminary approval of the vacation or alteration, the applicant shall submit for final plat approval through the final plat process of Section 40.540.070. If the nature of the plat alteration is minor, the review authority may set appropriate conditions and processes for final review and recording of the alteration at the time of preliminary approval.

C. Pre-Application Submittal Requirements for a Plat Alteration or Plat Vacation.

An applicant for a pre-application review of a proposed plat alteration or plat vacation shall submit an original and the number of individually bound copies as established by the responsible official of the following materials:

1. A completed original application form provided by the responsible official and signed by the applicant;
2. The requisite fees as specified in Title 6 of Clark County Code;
3. A copy of the recorded plat including eleven (11) inch by seventeen (17) inch (11" x 17") reductions of any oversized materials;
4. Restrictive covenants (if any);
5. The proposed revised plat map;
6. A narrative describing the nature, purpose, and desired effect of the proposed alteration or vacation; and
7. The following maps (as available from the Community Development Department through the "developer's GIS packet"):
  - a. General location map;
  - b. Elevation contours map;
  - c. Aerial photography map (most recent year currently available through the Community Development Department);
  - d. Aerial photography with contours;
  - e. Current zoning map;
  - f. Current comprehensive plan map;

- 1 g. Map of C-Tran bus routes, park and trails;
- 2 h. Water, sewer, and storm systems map;
- 3 i. Soil type map;
- 4 j. Environmental constraints map; and
- 5 k. Quarter section map.

6 D. Application Submittal Requirements for a Plat Alteration or Plat Vacation.

7 An applicant for a plat alteration or vacation shall submit the number of individually bound  
8 copies as established by the responsible official of the following materials:

- 9 1. A completed original application form provided by the responsible official signed by the  
10 majority of those persons having an ownership interest of lots, tracts, parcels, sites or  
11 divisions in the subject plat or portion thereof to be altered. Applications for the vacation  
12 of plats shall include signatures of all property owners having an ownership interest;
- 13 2. The requisite fees as specified in Title 6 of Clark County Code;
- 14 3. A copy of the recorded plat including eleven (11) inch by seventeen (17) inch (11" x 17")  
15 reductions of any oversized materials;
- 16 4. Current recorded deeds or real estate contracts for each lot to be altered;
- 17 5. Restrictive covenants;
- 18 6. The proposed revised plat map;
- 19 7. A narrative explaining how the proposed alteration or vacation meets or exceeds the  
20 applicable approval criteria and standards and any issues raised during the pre-  
21 application process;
- 22 8. Documentation from any person, utility, company or other entity having a vested interest  
23 in any easement proposed to be altered or vacated that they agree to the alteration or  
24 vacation;
- 25 9. The following maps (as available from the Community Development Department through  
26 the "developer's GIS packet"):
  - 27 a. General location map;
  - 28 b. Elevation contours map;
  - 29 c. Aerial photography map (most recent year currently available through the Community  
30 Development Department);
  - 31 d. Aerial photography with contours;
  - 32 e. Current zoning map;
  - 33 f. Current comprehensive plan map;

- 1 g. Map of C-Tran bus routes, park and trails;
- 2 h. Water, sewer, and storm systems map;
- 3 i. Soil type map;
- 4 j. Environmental constraints map; and
- 5 k. Quarter section map.
- 6 10. Pre-application conference summary; and
- 7 11. Existing conditions map including all of the following within fifty (50) feet of the proposed
- 8 alteration:
- 9 a. Streets;
- 10 b. Location(s) of any existing building(s);
- 11 c. Location and width of existing easements for access, drainage, utilities, etc., if not
- 12 already on the plat;
- 13 d. Name, location and width of existing rights-of-way, if not already on the plat;
- 14 e. Location and width of existing driveways; and
- 15 f. Other items that are relevant to the approval standards for the alteration or vacation.

16 E. Approval Criteria for Plat Alterations and Vacations.

- 17 1. The review authority may approve plat alteration requests if the following criteria is met:
- 18 a. The plat alteration is within the public interest; and
- 19 b. The approval criteria in Section 40.540.040(D), as applicable to the proposed plat
- 20 alteration, is met; and
- 21 c. The approval of the plat alteration will not result in the violation of any requirements of
- 22 the original approval unless conditions necessitating such requirements have
- 23 changed since the original plat was recorded.
- 24 2. The review authority may approve the vacation of a plat if it is in the public interest.
- 25 3. Minor plat alterations may be processed with reduced submittal requirements as
- 26 determined by the responsible official. The criteria of what constitutes a minor plat
- 27 alteration are as follows:
- 28 a. The alteration consists of correcting a scrivener's error which is clearly inconsistent
- 29 with the intent of the preliminary review, and, in the judgment of the responsible
- 30 official, does not affect the public interest.
- 31 b. The alteration will provide consistency with current code requirements, and, in the
- 32 judgment of the responsible official, does not affect the public interest.

1 F. Limitations.

- 2 1. If the plat or portions of the plat contain restrictive covenants which were filed with the plat  
3 and the proposed alteration will result in the violation of a covenant, the application shall  
4 contain an agreement signed by all parties to the covenant providing that all parties  
5 agree to alter or revoke the covenants specified in the application.
- 6 2. Vacations of county roads may be approved through this process only when the road  
7 vacation is proposed with the vacation of a subdivision or portions thereof. Vacations of  
8 roads may not be made that are prohibited under RCW 36.87.130 and Chapter 12.28.
- 9 3. If any land within the alteration contains a dedication to the general use of the persons  
10 residing within the subdivision, such land may be altered and divided equitably between  
11 the adjacent properties.
- 12 4. Blanket utility easements existing along the lot lines, but not specifically required as a  
13 condition of development approval, may be moved during a boundary line adjustment;  
14 provided, there is compliance with RCW 64.04.175 and the easement is not occupied by  
15 a utility. If the easement is occupied, the provisions of this section and RCW 64.04.175  
16 shall apply.

17  
18 **Rationale:** The current process for any change on a plat requires both a preliminary and final  
19 application process and related separate fees for each process.

20 Plat alterations to fix what is clearly a scrivener's error, or to allow uses or setbacks that meet  
21 current code requirements that involve little to no public interest issues should qualify for a  
22 shorter combined review process, with a proportionate smaller fee.

23 In addition to creating criteria for what qualifies as a Minor plat alteration, the notice period under  
24 which one can request a public hearing for any plat alteration has been shorted from 21 to 15  
25 days for consistency with other public notice timeframes.

26 **16. Amend Section 4.2, Activity Centers, of Appendix F, in the Highway 99 Overlay**  
27 **District Standards to allow commercial uses on a select few Residentially-zoned parcels**  
28 **within Activity Centers.**

29 Additional uses permitted:

- 30 • All uses allowed in the Community Commercial zone  
31 • All housing types shown in Table 4.1.  
32 • All the uses shown as Review and Approval are permitted and are not subject to the Review  
33 and Approval procedures or requirements. All conditional uses, as allowed by the applicable  
34 zoning district, except for those listed below, are permitted, and are not subject to the conditional  
35 use requirements of Section 40.520.030. The following uses are still subject to conditional use  
36 review and requirements:  
37 • Event facilities in excess of  
38 50,000 square feet  
39 • Hospitals  
40 • Outdoor paintball facilities  
41 • Drive-in theaters  
42 • Stadium arena facilities

- 1 • Zoos
- 2 • Solid waste handling and
- 3 disposal sites
- 4 • Type III wireless communication
- 5 facilities
- 6 Additional uses prohibited:
- 7 • RV parks and campgrounds
- 8 • Outdoor repair services
- 9 • RV storage
- 10 • Distribution facilities above 25,000
- 11 square feet of ground floor area
- 12 • Outdoor storage unless accessory to
- 13 a permitted use
- 14

15 **Rationale:** The intent of the Activity Center Overlay of the Highway 99 Subarea plan is to  
16 “emphasize uses and design that attract pedestrian activity”. All but five properties within Activity  
17 Centers have either Community Commercial or General Commercial zoning; a four-lot cluster  
18 near the intersection of Highway 99 and NE 122<sup>nd</sup> Street, and a portion of taxlot 145524-000 in  
19 the Totem Town Center are zoned R-18. Addition of the language would allow, at a minimum,  
20 Community Commercial uses on these few Residentially zoned properties, which was the  
21 original intent in including them within the Activity Centers.

22

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**R109.4 Approval required.** Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the *building official*. The *building official* upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the *permit* holder or an agent of the *permit* holder wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the *building official*.

### SECTION R110 CERTIFICATE OF OCCUPANCY

**R110.1 Use and occupancy.** A building or structure shall not be used or occupied, and a change in the existing use or occupancy classification of a building or structure or portion thereof shall not be made, until the *building official* has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the *jurisdiction*. Certificates presuming to give authority to violate or cancel the provisions of this code or other ordinances of the *jurisdiction* shall not be valid.

#### Exceptions:

1. Certificates of occupancy are not required for work exempt from permits under Section R105.2.
2. Accessory buildings or structures.

**R110.2 Change in use.** Changes in the character or use of an existing structure shall not be made except as specified in Sections 407 and 408 of the *International Existing Building Code*.

**R110.3 Certificate issued.** After the *building official* inspects the building or structure and does not find violations of the provisions of this code or other laws that are enforced by the department of building safety, the *building official* shall issue a certificate of occupancy containing the following:

1. The building *permit* number.
2. The address of the structure.
3. The name and address of the owner or the owner's authorized agent.
4. A description of that portion of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code.
6. The name of the *building official*.
7. The edition of the code under which the *permit* was issued.
8. If an automatic sprinkler system is provided and whether the sprinkler system is required.
9. Any special stipulations and conditions of the building *permit*.

**R110.4 Temporary occupancy.** The *building official* is authorized to issue a temporary certificate of occupancy

before the completion of the entire work covered by the *permit*, provided that such portion or portions shall be occupied safely. The *building official* shall set a time period during which the temporary certificate of occupancy is valid.

**R110.5 Revocation.** The *building official* shall, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

### SECTION R111 SERVICE UTILITIES

**R111.1 Connection of service utilities.** A person shall not make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a *permit* is required, until *approved* by the *building official*.

**R111.2 Temporary connection.** The *building official* shall have the authority to authorize the temporary connection of the building or system to the utility, source of energy, fuel or power.

**R111.3 Authority to disconnect service utilities.** The *building official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section R102.4 in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without the approval required by Section R111.1 or R111.2. The *building official* shall notify the serving utility and where possible the owner or the owner's authorized agent and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection, the owner, the owner's authorized agent or occupant of the building, structure or service system shall be notified in writing as soon as practical thereafter.

### SECTION R112 (SEE 14.06.112.3) BOARD OF APPEALS

**R112.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the *building official* relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The *building official* shall be an ex officio member of said board but shall not have a vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render decisions and findings in writing to the appellant with a duplicate copy to the *building official*.

**R112.2 Limitations on authority.** An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or

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an equally good or better form of construction is proposed. The board shall not have authority to waive requirements of this code.

**R112.3 Qualifications.** The board of appeals shall consist of members who are qualified by experience and training to pass judgement on matters pertaining to building construction and are not employees of the jurisdiction.

**R112.4 Administration.** The *building official* shall take immediate action in accordance with the decision of the board.

**R114.2 Unlawful continuance.** Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

### SECTION R113 VIOLATIONS

**R113.1 Unlawful acts.** It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or *equipment* regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

**R113.2 Notice of violation.** The *building official* is authorized to serve a notice of violation or order on the person responsible for the erection, construction, *alteration*, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a detail statement or a plan *approved* thereunder, or in violation of a *permit* or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

**R113.3 Prosecution of violation.** If the notice of violation is not complied with in the time prescribed by such notice, the *building official* is authorized to request the legal counsel of the *jurisdiction* to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

**R113.4 Violation penalties.** Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the *approved construction documents* or directive of the *building official*, or of a *permit* or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

### SECTION R114 STOP WORK ORDER

**R114.1 Notice to owner or the owner's authorized agent.** Upon notice from the *building official* that work on any building or structure is being executed contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's authorized agent or to the person performing the work and shall state the conditions under which work will be permitted to resume.

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[A] **110.6 Approval required.** Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the *building official*. The *building official*, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the *permit* holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the *building official*.

### SECTION 111 CERTIFICATE OF OCCUPANCY

[A] **111.1 Use and occupancy.** A building or structure shall not be used or occupied, and a change in the existing use or occupancy classification of a building or structure or portion thereof shall not be made, until the *building official* has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

**Exception:** Certificates of occupancy are not required for work exempt from *permits* in accordance with Section 105.2.

[A] **111.2 Certificate issued.** After the *building official* inspects the building or structure and does not find violations of the provisions of this code or other laws that are enforced by the department of building safety, the *building official* shall issue a certificate of occupancy that contains the following:

1. The building *permit* number.
2. The address of the structure.
3. The name and address of the *owner* or the *owner's* authorized agent.
4. A description of that portion of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the *building official*.
7. The edition of the code under which the *permit* was issued.
8. The use and occupancy, in accordance with the provisions of Chapter 3.
9. The type of construction as defined in Chapter 6.
10. The design *occupant load*.
11. If an *automatic sprinkler system* is provided, whether the sprinkler system is required.
12. Any special stipulations and conditions of the building *permit*.

[A] **111.3 Temporary occupancy.** The *building official* is authorized to issue a temporary certificate of occupancy

before the completion of the entire work covered by the *permit*, provided that such portion or portions shall be occupied safely. The *building official* shall set a time period during which the temporary certificate of occupancy is valid.

[A] **111.4 Revocation.** The *building official* is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

### SECTION 112 SERVICE UTILITIES

[A] **112.1 Connection of service utilities.** A person shall not make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a *permit* is required, until released by the *building official*.

[A] **112.2 Temporary connection.** The *building official* shall have the authority to authorize the temporary connection of the building or system to the utility, source of energy, fuel or power.

[A] **112.3 Authority to disconnect service utilities.** The *building official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 101.4 in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without the approval required by Section 112.1 or 112.2. The *building official* shall notify the serving utility, and wherever possible the *owner* and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the *owner* or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

### SECTION 113 (SEE 14.05.112.3) BOARD OF APPEALS

[A] **113.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the *building official* relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.

[A] **113.2 Limitations on authority.** An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall not have authority to waive requirements of this code.

[A] **113.3 Qualifications.** The board of appeals shall consist of members who are qualified by experience and training to

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pass on matters pertaining to building construction and are not employees of the jurisdiction.

#### SECTION 114 VIOLATIONS

[A] 114.1 **Unlawful acts.** It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, *repair*, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

[A] 114.2 **Notice of violation.** The *building official* is authorized to serve a notice of violation or order on the person responsible for the erection, construction, *alteration*, extension, *repair*, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a *permit* or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

[A] 114.3 **Prosecution of violation.** If the notice of violation is not complied with promptly, the *building official* is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

[A] 114.4 **Violation penalties.** Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the *approved construction documents* or directive of the *building official*, or of a *permit* or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

#### SECTION 115 STOP WORK ORDER

[A] 115.1 **Authority.** Where the *building official* finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the *building official* is authorized to issue a stop work order.

[A] 115.2 **Issuance.** The stop work order shall be in writing and shall be given to the *owner* of the property involved, the *owner's* authorized agent or the person performing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume.

[A] 115.3 **Unlawful continuance.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

#### SECTION 116 UNSAFE STRUCTURES AND EQUIPMENT

[A] 116.1 **Conditions.** Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate *means of egress* facilities, inadequate light and ventilation, or that constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the *building official* deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

[A] 116.2 **Record.** The *building official* shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

[A] 116.3 **Notice.** If an unsafe condition is found, the *building official* shall serve on the *owner*, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the *building official* acceptance or rejection of the terms of the order.

[A] 116.4 **Method of service.** Such notice shall be deemed properly served if a copy thereof is (a) delivered to the *owner* personally; (b) sent by certified or registered mail addressed to the *owner* at the last known address with the return receipt requested; or (c) delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the *owner's* agent or upon the person responsible for the structure shall constitute service of notice upon the *owner*.

[A] 116.5 **Restoration.** Where the structure or equipment determined to be unsafe by the *building official* is restored to a safe condition, to the extent that repairs, *alterations* or *additions* are made or a change of occupancy occurs during the restoration of the structure, such *repairs*, *alterations*, *additions* and change of occupancy shall comply with the requirements of Section 105.2.2 and the *International Existing Building Code*.

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code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

[A] **108.3 Prosecution of violation.** If the notice of violation is not complied with promptly, the code official shall request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful *occupancy* of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

[A] **108.4 Violation penalties.** Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair mechanical work in violation of the *approved construction documents* or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

[A] **108.5 Stop work orders.** Upon notice from the code official that mechanical work is being performed contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's authorized agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.

[A] **108.6 Abatement of violation.** The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal *occupancy* of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the mechanical system on or about any premises.

[A] **108.7 Unsafe mechanical systems.** A mechanical system that is unsafe, constitutes a fire or health hazard, or is otherwise dangerous to human life, as regulated by this code, is hereby declared as an unsafe mechanical system. Use of a mechanical system regulated by this code constituting a hazard to health, safety or welfare by reason of inadequate maintenance, dilapidation, fire hazard, disaster, damage or abandonment is hereby declared an unsafe use. Such unsafe *equipment* and appliances are hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal.

[A] **108.7.1 Authority to condemn mechanical systems.** Whenever the code official determines that any mechani-

cal system, or portion thereof, regulated by this code has become hazardous to life, health, property, or has become insanitary, the code official shall order in writing that such system either be removed or restored to a safe condition. A time limit for compliance with such order shall be specified in the written notice. A person shall not use or maintain a defective mechanical system after receiving such notice.

Where such mechanical system is to be disconnected, written notice as prescribed in Section 108.2 shall be given. In cases of immediate danger to life or property, such disconnection shall be made immediately without such notice.

[A] **108.7.2 Authority to order disconnection of energy sources.** The code official shall have the authority to order disconnection of energy sources supplied to a building, structure or mechanical system regulated by this code, where it is determined that the mechanical system or any portion thereof has become hazardous or unsafe. Written notice of such order to disconnect service and the causes therefor shall be given within 24 hours to the owner, the owner's authorized agent and occupant of such building, structure or premises, provided, however, that in cases of immediate danger to life or property, such disconnection shall be made immediately without such notice. Where energy sources are provided by a public utility, the code official shall immediately notify the serving utility in writing of the issuance of such order to disconnect.

[A] **108.7.3 Connection after order to disconnect.** A person shall not make energy source connections to mechanical systems regulated by this code which have been disconnected or ordered to be disconnected by the code official, or the use of which has been ordered to be discontinued by the code official until the code official authorizes the reconnection and use of such mechanical systems.

Where a mechanical system is maintained in violation of this code, and in violation of a notice issued pursuant to the provisions of this section, the code official shall institute appropriate action to prevent, restrain, correct or abate the violation.

→ SECTION 109 (SEE 14.12.090)  
MEANS OF APPEAL

[A] **109.1 Application for appeal.** A person shall have the right to appeal a decision of the code official to the board of appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The application shall be filed on a form obtained from the code official within 20 days after the notice was served.

[A] **109.1.1 Limitation of authority.** The board of appeals shall not have authority relative to interpretation of the administration of this code nor shall such board be empowered to waive requirements of this code.

THESE NOT ADOPTED

[A] 109.2 Membership of board. The board of appeals shall consist of five members appointed by the chief appointing authority as follows: one for 5 years; one for 4 years; one for 3 years; one for 2 years; and one for 1 year. Thereafter, each new member shall serve for 5 years or until a successor has been appointed.

[A] 109.2.1 Qualifications. The board of appeals shall consist of five individuals, one from each of the following professions or disciplines.

1. Registered design professional who is a registered architect; or a builder or superintendent of building construction with not less than 10 years' experience, 5 of which shall have been in responsible charge of work.
2. Registered design professional with structural engineering or architectural experience.
3. Registered design professional with mechanical and plumbing engineering experience; or a mechanical contractor with not less than 10 years' experience, 5 of which shall have been in responsible charge of work.
4. Registered design professional with electrical engineering experience; or an electrical contractor with not less than 10 years' experience, 5 of which shall have been in responsible charge of work.
5. Registered design professional with fire protection engineering experience; or a fire protection contractor with not less than 10 years' experience, 5 of which shall have been in responsible charge of work.

NOT ADOPTED

[A] 109.2.2 Alternate members. The chief appointing authority shall appoint two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership and shall be appointed for 5 years, or until a successor has been appointed.

[A] 109.2.3 Chairman. The board shall annually select one of its members to serve as chairman.

[A] 109.2.4 Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.

[A] 109.2.5 Secretary. The chief administrative officer shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

[A] 109.2.6 Compensation of members. Compensation of members shall be determined by law.

[A] 109.3 Notice of meeting. The board shall meet upon notice from the chairman, within 10 days of the filing of an appeal, or at stated periodic meetings.

[A] 109.4 Open hearing. Hearings before the board shall be open to the public. The appellant, the appellant's representa-

tive, the code official and any person whose interests are affected shall be given an opportunity to be heard.

[A] 109.4.1 Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

[A] 109.5 Postponed hearing. When five members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

[A] 109.6 Board decision. The board shall modify or reverse the decision of the code official by a concurring vote of three members.

[A] 109.6.1 Resolution. The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the code official.

[A] 109.6.2 Administration. The code official shall take immediate action in accordance with the decision of the board.

[A] 109.7 Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

SECTION 110  
TEMPORARY EQUIPMENT, SYSTEMS AND USES

[A] 110.1 General. The code official is authorized to issue a permit for temporary equipment, systems and uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The code official is authorized to grant extensions for demonstrated cause.

[A] 110.2 Conformance. Temporary equipment, systems and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

[A] 110.3 Temporary utilities. The code official is authorized to give permission to temporarily supply utilities before an installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the code.

[A] 110.4 Termination of approval. The code official is authorized to terminate such permit for temporary equipment, systems or uses and to order the temporary equipment, systems or uses to be discontinued.

tems, shall not be rendered inoperative or inaccessible, except as necessary during emergencies, maintenance, repairs, *alterations*, drills or prescribed testing.

[A] **107.6 Overcrowding.** Overcrowding or admittance of any person beyond the *approved* capacity of a building or a portion thereof shall not be allowed. The *fire code official*, upon finding any overcrowding conditions or obstructions in *aisles*, passageways or other *means of egress*, or upon finding any condition that constitutes a life safety hazard, shall be authorized to cause the event to be stopped until such condition or obstruction is corrected.

## SECTION 108 BOARD OF APPEALS

[A] **108.1 Board of appeals established.** In order to hear and decide appeals of orders, decisions or determinations made by the *fire code official* relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The *fire code official* shall be an *ex officio* member of said board but shall not have a vote on any matter before the board. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the *fire code official*.

[A] **108.2 Limitations on authority.** An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The board shall not have authority to waive requirements of this code.

[A] **108.3 Qualifications.** The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or *fire protection systems*, and are not employees of the jurisdiction.

## SECTION 109 VIOLATIONS

[A] **109.1 Unlawful acts.** It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a building, occupancy, premises or system regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

[A] **109.2 Owner/occupant responsibility.** Correction and abatement of violations of this code shall be the responsibility of the *owner* or the *owner's* authorized agent. Where an occupant creates, or allows to be created, hazardous conditions in violation of this code, the occupant shall be held responsible for the abatement of such hazardous conditions.

[A] **109.3 Notice of violation.** Where the *fire code official* finds a building, premises, vehicle, storage facility or outdoor area that is in violation of this code, the *fire code official* is authorized to prepare a written notice of violation describing

the conditions deemed unsafe and, where compliance is not immediate, specifying a time for reinspection.

[A] **109.3.1 Service.** A notice of violation issued pursuant to this code shall be served upon the *owner*, the *owner's* authorized agent, operator, occupant or other person responsible for the condition or violation, either by personal service, mail or by delivering the same to, and leaving it with, some person of responsibility upon the premises. For unattended or abandoned locations, a copy of such notice of violation shall be posted on the premises in a conspicuous place at or near the entrance to such premises and the notice of violation shall be mailed by certified mail with return receipt requested or a certificate of mailing, to the last known address of the *owner*, the *owner's* authorized agent, or occupant.

[A] **109.3.2 Compliance with orders and notices.** A notice of violation issued or served as provided by this code shall be complied with by the *owner*, the *owner's* authorized agent, operator, occupant or other person responsible for the condition or violation to which the notice of violation pertains.

[A] **109.3.3 Prosecution of violations.** If the notice of violation is not complied with promptly, the *fire code official* is authorized to request the legal counsel of the jurisdiction to institute the appropriate legal proceedings at law or in equity to restrain, correct or abate such violation or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant hereto.

[A] **109.3.4 Unauthorized tampering.** Signs, tags or seals posted or affixed by the *fire code official* shall not be mutilated, destroyed or tampered with, or removed, without authorization from the *fire code official*.

[A] **109.4 Violation penalties.** Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the *approved construction documents* or directive of the *fire code official*, or of a permit or certificate used under provisions of this code, shall be guilty of a [SPECIFY OFFENSE], punishable by a fine of not more than [AMOUNT] dollars or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

[A] **109.4.1 Abatement of violation.** In addition to the imposition of the penalties herein described, the *fire code official* is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

## SECTION 110 UNSAFE BUILDINGS

[A] **110.1 General.** If during the inspection of a premises, a building or structure, or any building system, in whole or in