

WASHINGTON STATE BOUNDARY REVIEW BOARD FOR SNOHOMISH COUNTY

ORGANIZATION AND RULES OF PRACTICE AND PROCEDURE

Pursuant to RCW 36.93.200, the Washington State Boundary Review Board for Snohomish County adopted Rules of Practice and Procedure which were last amended and adopted on March 11, 2015, now, therefore

BE IT HEREBY RESOLVED by the Washington State Boundary Review Board for Snohomish County that the Organization and Rules of Practice and Procedure are hereby amended and adopted on this 21st day of March 2019 (insert new date).

ORGANIZATION

I. OFFICERS, TERMS

The Board shall elect from among its members, at a duly-noticed meeting, typically held in March, a Chair and Vice-Chair, each of whom shall serve for a period of one year and thereafter until their respective successors shall have been elected, but the Chair or Vice-Chair may be replaced at any time by a vote of the majority of members. However, this does not preclude a member from holding any office on the Board because their term expires the following year. The Vice-Chair shall serve in the absence of the Chair and until a new Chair is elected if a Chair vacancy occurs. (RCW 36.93.070)

II. BOARD COMPENSATION

Upon attendance at a regular or special Board meeting or at a hearing called to review a Notice of Intention each member of the Board shall be entitled to compensation from the Snohomish County Current Expense Fund at a rate of \$50.00 per day, or major portion thereof. Each member shall be entitled to compensation for other time actually devoted to the work of the Boundary Review Board and approval of the Chair or the majority of the Board at a rate of \$50.00 per cumulative period of seven hours or major portion thereof. (RCW 36.93.070)

RULES OF PRACTICE AND PROCEDURE

I. OFFICE PROCEDURE

A. Correspondence

1. All correspondence to the board shall be received at the Office of the Chief Clerk of the Boundary Review Board, M/S 409, 3000 Rockefeller Ave, Everett, WA 98201.

B. Notice of Intention

1. Form – All Notices of Intention shall be submitted by the city, town, or special purpose district being petitioned, or in case of an incorporation or formation, by the petitioner group in the appropriate form, which shall be available from the Chief Clerk upon request.
2. A Notice of Intention shall describe no more than one contiguous area of land, that is, an area whose boundary is defined by a single continuous line. This is to include a map outlining the perimeter boundary of the subject area together with a description of the subject area. In the case of a regional authority as defined by statute, a Notice of Intention may describe more than one contiguous area of land.
3. When Review Not Necessary – In case of annexation where the area proposed is less than ten acres and less than two million dollars in assessed valuation, the Chair may, by written statement, declare that review by the Board is not necessary for the protection of the interest of the various parties, in which case the Board shall not review such annexation. (RCW 36.93.110)
4. Filing of Notice of Intention – All Notices of Intention and Petitions whether or not they are to be filed with other county offices other than the Boundary Review Board will in all cases be processed through the office of the Boundary Board for review and concurrence.
5. Initiator – The initiator involving petitions and Notices of Intention for proposed actions, in accordance with chapter 36.93 RCW relating to cities, towns or special purpose districts shall be that city town or special purpose district being petitioned. Where no city, town or special purpose district exists (city or town incorporation or special purpose district formation), the initiator shall be the petitioners of such action.

In cases where the Snohomish County Council proposes to create a sewer district pursuant to RCW 57.04.020 and is in receipt of an opinion of the county health officer as provided therein, the county council shall be deemed the initiator. (RCW 36.93.090)

6. Additional Information – To facilitate consideration of the Notice of Intention, the Board or its Chief Clerk may request the initiator of the action to supply additional specified information regarding the subject of the Notice of Intention.
7. Filing Date – Upon determination that according to chapter 36.93 RCW and the Board’s Organization and Rules of Practice and Procedure, the Notice of Intention is legally sufficient and all fees have been paid, the Chief Clerk will assign an effective filing date. In making this determination, the Chief Clerk may rely upon certification provided at the time the Notice of Intention is filed. However, in all cases the Board will request confirmation from the appropriate Snohomish County offices that the petition is legally sufficient. This will at a minimum entail a determination that the legal description of the property is correct and that the relevant provisions of Titles 35 and 35A RCW are met. An effective filing date will not be assigned until this confirmation has occurred.
8. Routing – Upon assignment of an effecting filing date to a Notice of Intention, the Chief Clerk will route the Notice of Intention to appropriate agencies for review and comment, including but not limited to legal counsel (if jurisdiction is invoked), the Snohomish County Planning and Development Services (PDS) Department, the Snohomish Health District, and the Washington State Department of Ecology in the case of an action proposed by a water/sewer district.
9. Notice to the Board – The Chief Clerk shall forward a copy of the Notice of Intention cover sheet to each Board Member upon assignment of the effective filing date. The complete Notice of Intention along with additional information shall be forwarded to the members of the Board upon jurisdiction being invoked and at least seven (7) calendar days prior to the Board meeting at which the Notice of Intention is to be considered.
10. Notice to Entities Having Jurisdiction – Upon assignment of an effective filing date to a Notice of Intention the Chief Clerk shall forward a copy to the governing body of each governmental unit having jurisdiction in or near the boundaries of that territory proposed to be affected and to all other entities having requested such information.
11. Withdrawal – Any Notice of Intention filed with the Board may be withdrawn by the entity who filed the same at any time prior to invocation of the Board’s jurisdiction pursuant to RCW 36.93.100, and thereafter may be withdrawn only with the consent of the Board and of all person or entities who have requested review by the Board and paid the fee required to file such a request.
12. Fees Not Refundable – In no case may a fee be refunded.

13. Withdrawal of Request - A request for review filed pursuant to RCW 36.93.100 by the county or an affected governmental unit may be withdrawn with the consent of the Board provided legal notice has not been publicized. The request for review fee will not be refunded

C. Agenda

On or before the Friday preceding a Board meeting or public hearing, an agenda shall be prepared by the Chief Clerk which shall summarize all matters then known to require attention. However, the Board may consider any other matter brought before it by any member thereof so long as all necessary notice requirements have been fulfilled. A copy of the agenda for each meeting shall be filed by the Clerk of the Board. When a special meeting is called for, the agenda shall be posted at the meeting location 24 hours prior to the meeting.

D. Notice to Governmental Units – Response

The Chief Clerk shall ascertain which governmental units are required by law to be notified of each hearing and shall request from each governmental unit affected a written statement to be submitted prior to the hearing as to its position relative to the Notice of Intention (RCW 36.93.160).

II. MEETINGS, JURISDICTION AND HEARINGS

A. General Procedure

1. Notice of Public Hearing – When the jurisdiction of the Board has been invoked, notice of public hearing shall be provided in accordance with RCW 36.93.160(1).
2. Schedule of Regular and Special Meetings– Regular meetings will be held annually in the month of March in a public meeting room designated by the Chief Clerk. Special meetings will be held as needed in a public meeting room designated by the Chief Clerk.
3. Schedule of Hearings- Public Hearings will be held as needed in a public meeting room designated by the Chief Clerk.
4. Rules of Order - Except as modified by the Rules of Practice and Procedure, all meetings and hearings of the Board shall be conducted in accordance with “Roberts Rules of Order Revised”.
5. Written Record – All official actions of the Board shall be reduced to writing and signed by the chair or authorized member of the Board.
6. Participation by the Chair - The Chair may make or second any motion and present and discuss any matter as a member and shall be entitled to vote on all matters.

7. Voting – In the absence of objections, the Chair may order a motion unanimously approved. The normal procedure shall be a roll call vote. A tie vote shall be resolved pursuant to the provisions of RCW 36.93.150, which provides that “unless a board disapproves a proposal, it shall be presented under the appropriate statute for approval of a public body and, if required a vote of the people. “ Any member voting on a Hearing Decision or adoption of a Hearing Decision shall have been present during all sessions of the hearing or modification hearing or have received the recorded testimony and exhibits prior to voting on the matter.
8. Postponement and Adjournment – The Chair may postpone or continue any pending matter to a date certain at any time or the Board may adjourn to any particular time and place or to a time and place subject to notice as provided by law.

B. Jurisdiction

1. Review Fee - The Chief Clerk shall not accept for filing any proposal for review pursuant to RCW 36.93.100 unless it is accompanied by payment of such fees as required by RCW 36.93.120.
2. Establishing Hearing – Every matter for which there is a request for review and over which jurisdiction is invoked shall be referred to the whole Board and the time and place of hearing fixed. No hearing date shall be set until all fees required by RCW 36.93 have been paid.

C. Conduct of Hearings

1. Parties of Record – “Party of Record” designates any person who has appeared at a public hearing and signed up to speak or to receive notification of any action taken by the Board or from whom the Board has received written communication on a specific proposal.
2. Representatives – Any initiator of a proposed action, governmental unit or interested person or persons or any duly authorized representative may appear before the Board. Any persons interested in addressing the Board must be recognized by the Chair before providing on the record his or her name and address to the Chief Clerk or designee and the name of the persons or governmental units on whose behalf he or she appears. The Chair may, in interest of facilitating the business of the Board, limit the amount of time to be allowed to any persons, group, or governmental unit.

3. Initial Position Statements and Briefs – Materials received by the Board no later than fourteen working days prior to the scheduled date of the public hearing will be filed and provided to the Board and parties of record no later than seven days in advance of the hearing. All such materials shall be delivered to the Boundary Review Board office no later than the close of business on the due date, postmarks do not apply.
Materials received by the Board within thirteen working days prior to the scheduled public hearing will be filed and provided to the Board at the public hearing. Written materials may also be submitted to the Board at the public hearing.
A copy of all materials filed shall be available for review by any interested party in the office of the Board.
4. Form of Oath or Affirmation – The Chief Clerk or designee shall administer the oath to any person wishing to offer testimony pursuant to RCW 5.28.020 or RCW 5.28.050.
5. Conduct of Hearings – Unless different procedures are approved prior to hearing the following procedure for public hearing testimony will generally be followed. The Chair reserves the right to alter this procedure.
 - (1) The proponent (city or district and primary property owner or proponent’s group representing proposal) will be allowed a combined total of 30 minutes.
 - (2) Major opponent or opponents group will be allowed a total of 30 minutes.
 - (3) Snohomish County will be allowed a total of 15 minutes.
 - (4) Other governmental entities (districts, cities, etc.) will be allowed a total of 15 minutes.
 - (5) Other proponents and opponents will be allowed a total of 5 minutes each.
 - (6) Major rebuttal will be allowed 10 minutes.
 - (7) Proponent rebuttal, city staff and other representatives 10 minutes.

This procedure is subject to change depending upon the number of persons signed up to testify and other related factors.

6. Ex Parte Communications - No Board Member may engage in ex parte communication on the substance of a matter for which a Notice of Intention has been filed until such time the Board has concluded its written findings on the matter unless the member makes the substance of such communication part of the public record and provides that public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication relates (RCW 42.36.060).
7. Transcript of Hearings – All public hearings before the Board shall be recorded verbatim. In the event of an appeal to Superior Court, transcripts or portions thereof, shall be made available to interested parties upon request to the Chief Clerk and payment of costs thereof. Such charges shall include but not limited to the cost of transcription, copying and verification of materials. A copy shall be retained for the Board's file. (RCW 36.93.160)
8. Additional Hearings – Following the conclusion of a hearing which has resulted from the invocation of the Board jurisdiction pursuant to RCW 36.93.100 or the conclusion of a hearing on the modification of a proposal, the Board may, prior to the filing of its written decision hold an additional hearing or hearings on modification.
9. Preparation of Decision – When both the major proponent and opponent of an action are represented by legal counsel, the Board may request that's its Findings and Decisions be drafted by prevailing counsel in consultation with other counsel.

D. Post Decision Matters

1. Reconsideration – Board decisions are not subject to reconsideration.
2. Remand – In the event of a remand from a superior or appellate court, the Board will discuss the procedure to be followed at the earliest available meeting. In the event that the Board determines that a hearing should be scheduled, the Board will attempt to do so whenever possible within the time frame set by statute for new hearings. The Board may limit testimony submission of new exhibits, or written comments as it deems necessary or appropriate.

E. Legal Opinions – All questions of Law should be referred to the Snohomish County Prosecuting Attorney’s Office (RCW 36.93.070).

Amended in public meeting this 27th day of March, 2019

WASHINGTON STATE BOUNDARY REVIEW BOARD
FOR SNOHOMISH COUNTY



Chad Bates, Chair
Boundary Review Board



Pamela Yount, Chief Clerk
Boundary Review Board