

WAC 461-08-305 Definitions. The following terms apply throughout this chapter and, unless the context clearly requires otherwise, have the following meanings:

(1) "Adjudicative proceeding" means a proceeding involving an opportunity for hearing before the board as defined in RCW 34.05.010. The terms "appeal," "adjudicative proceeding," and "case" are used interchangeably in this chapter.

(2) "Agency" means any state governmental entity.

(3) "Board" means the shorelines hearings board, a quasi-judicial body created pursuant to chapter 90.58 RCW and described in WAC 461-08-315.

(4) "Business days" means Monday through Friday exclusive of any state or federal holidays.

(5) "CMS" means the environmental and land use hearings office case management system or any successor system designated by the board.

(6) "Date of filing" as used in this chapter and RCW 90.58.140(6) has different meanings depending upon the type of local government decision that is being appealed.

(a) "Date of filing" of a local government's approval or denial of a substantial development permit, or local government's denial of a variance or conditional use permit, is the date of actual receipt by the department of the local government's decision.

(b) "Date of filing" of a local government's approval of a conditional use permit or variance is the date that the department transmits its final decision or order to local government.

(c) For substantial development permits filed simultaneously with approvals of conditional use permits or variances, the "date of filing" is the date that the department transmits its final decision or order on the variance or conditional use permit to local government.

(7) "Department" refers to and means the department of ecology.

(8) "Filing" of a document means actual receipt by the board between the hours of 8:00 a.m. and 5:00 p.m. on days other than Saturdays, Sundays, or legal holidays. The board's record of the date and time of receipt of a document shall be evidence of the filing date. Filings received after 5:00 p.m., or on a Saturday, Sunday, or legal holiday, shall be considered filed on the next business day. If the last day for filing a document as required by these rules falls on a day when the board is closed under WAC 461-08-320(3), then the time for such filing shall be extended until the end of the next business day upon which the board is open for business.

(a) The filing of documents with the board shall be electronically through the CMS. Information about accessing the CMS is available at the ELUHO website at www.eluho.wa.gov. If a party does not have the technological capacity to file electronically through the CMS, a party may file documents by personal delivery, commercial delivery, fax, electronic mail, or first-class, registered, or certified mail.

(b) Any document filed with the board shall contain an affirmation that copies were served on the appropriate agency, local government and parties.

(c) Filing of a document in the method authorized in (a) of this subsection shall substitute for filing through the CMS in the event the CMS is unavailable or in emergency situations in which the governor declares a statewide emergency.

(9) "Local government" means any county, incorporated city or town which contains within its boundaries any lands or water subject to chapter 90.58 RCW.

(10) "Party" means:

(a) A person to whom any local government or agency decision is specifically directed; or

(b) A person named as a party to the appeal, or allowed to intervene or joined as a party by the board.

(11) "Person" means any individual, partnership, corporation, association, organization, governmental subdivision, agency or entity of any character.

(12) "Petition for review" is a document that when properly filed with the board initiates an adjudicative proceeding before the board.

(13) "Presiding officer" means any member of the board or an administrative appeals judge who is assigned to conduct a conference or hearing by the chairperson or the vice chairperson.

(14) "Service" of petitions for review and other documents related to adjudicative proceedings before the board means delivery of the document to the parties to the appeal. Service of board decisions means delivery of the document to the parties to the appeal. Service may be made in any of the following ways:

(a) Personally, in accordance with the laws of the state, with a return of service or affidavit of service completed.

(b) First-class, registered, or certified mail. Service is complete upon deposit in the United States mail properly stamped and addressed.

(c) Fax transmission with mailing or submission to a commercial delivery service of copies on the same day. Service by fax is regarded as complete by production of the confirmation of transmission and evidence of mailing or submission to a delivery service of the copies.

(d) Commercial delivery service. Service by commercial delivery service is regarded as complete upon delivery to the delivery company with charges prepaid.

(e) Electronic service. Electronic service of documents is authorized if agreed to by the receiving party. Service by email is regarded as complete when the email is sent successfully. Electronic service is regarded as complete when the document is uploaded successfully to the receiving party's designated electronic system. The receiving party's record of the date and time of receipt of a document shall be evidence of the service date.

(15) "Signature" means a written signature, or an electronic signature executed or adopted by a person with the intent to sign a document either in the form of s/_____ (name typed out), a graphic representation of an electronic signature, or a digital graphic representation of the signature as signed by the person. An electronic signature shall be considered the same as an original signature for all purposes.

[Statutory Authority: RCW 43.21B.170 and 90.58.175. WSR 23-11-078, § 461-08-305, filed 5/17/23, effective 6/16/23; WSR 15-03-044, § 461-08-305, filed 1/14/15, effective 2/14/15. Statutory Authority: RCW 90.58.175, 90.58.090, 90.58.140, 90.58.180, and 90.58.190. WSR 13-21-068, § 461-08-305, filed 10/16/13, effective 11/16/13. Statutory Authority: RCW 43.21B.170, 90.58.175, 2010 c 84, 2010 c 130, 2010 c 210, and 2010 c 285. WSR 10-18-021, § 461-08-305, filed 8/23/10, effective 9/23/10. Statutory Authority: RCW 43.21B.170, 90.58.174, chapters 43.21B, 34.05, and 90.58 RCW. WSR 07-03-074, § 461-08-305, filed 1/17/07, effective 2/17/07. Statutory Authority: RCW 90.58.175. WSR 96-15-002, § 461-08-305, filed 7/3/96, effective 8/3/96.]