

WSR 15-16-070
EXPEDITED RULES
DEPARTMENT OF
ENTERPRISE SERVICES

[Filed July 30, 2015, 3:44 p.m.]

Title of Rule and Other Identifying Information: Amending and repealing chapters in Title 200 WAC, Enterprise services, department of.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO online <http://des.wa.gov/about/LawsRules/Pages/Rulemaking.aspx>, e-mail rules@des.wa.gov, by mail to Jack Zeigler, Department of Enterprise Services, P.O. Box 41410, Olympia, WA 98501, AND RECEIVED BY October 6, 2015.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to bring agency rules under Title 200 WAC in [into] alignment with current law and current circumstances.

Changes in existing rules are general housekeeping changes to include, but not limited to: Address or name changes, correction of typographical errors, clarification of rule language, repeal of rules no longer necessary because of changed circumstances, and other changes as needed when allowed by RCW 34.05.353 Expedited rule making.

Reasons Supporting Proposal: This rule-making change is necessary to align agency rules with current law and current circumstances.

Statutory Authority for Adoption: RCW 43.19.011, 43.19.620, 43.19.985, 43.19.742, 43.19.769, 39.26.080, 39.26.090, 39.26.251, 39.26.255, 39.26.271.

Statute Being Implemented: Chapters 43.19 and 39.26 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of enterprise services, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Jack Zeigler, 1500 Jefferson Street S.E., Olympia, WA, (360) 407-9209; and Enforcement: Chris Liu, 1500 Jefferson Street S.E., Olympia, WA, (360) 407-9201.

July 30, 2015
 Jack Zeigler
 Policy and Rules Manager

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-10-010 Authority, scope and coverage of this chapter. (1) This chapter is promulgated pursuant to RCW 43.21C.120.

(2) Compliance with the rules of this chapter shall constitute procedural compliance with SEPA for an "action" as defined in WAC 197-11-704.

(3) The rules of this chapter contain no sections relating to the notice/statute of limitations provisions of chapter 43.21C RCW. To utilize these provisions, the department of (~~general administration~~) enterprise services shall follow the statutory language and any applicable regulations of the department of ecology.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-10-030 Adoption by reference. The department of (~~general administration~~) enterprise services hereby adopts the sections or subsections of chapter 197-11 WAC by reference.

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AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-10-050 Applications for exemptions within the department of ((general administration)) enterprise services. Each "action" of the department shall have a form completed and retained in the applicant's division files. This form shall show the action and exemption decision, exempt or otherwise, and be signed by the department of ((general administration)) enterprise services representative making that decision. This form shall also show any threshold decision, including determinations of nonsignificance and significance, signed by the department representative. Additionally, copies of the threshold determination shall be included in the file.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-10-060 Timing of the EIS process. (1) Public works request. Any agency submitting a public works request to the department of ((general administration)) enterprise services shall be regarded as the lead agency. It will be the sole responsibility of an agency submitting a public works request to determine whether the action is exempt and, if not, to prepare an environmental checklist, make threshold determinations of nonsignificance or significance, prepare draft and final EIS's and conduct public hearings. If an EIS is required for any public works request the working draft EIS must be prepared concurrently or prior to the completion of the design development phase. Evidence of compliance with SEPA rules, chapter 197-11 WAC, must be provided to the department of ((general administration)) enterprise services prior to implementing proposals.

(2) Space request. The department of ((general administration)) enterprise services will normally assume responsibility as lead agency for space requests submitted to the department. However, if an EIS is required for a space request the agency submitting the space request may be assigned responsibility for preparing the draft and final EIS's and to conduct public hearings.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-10-100 Policies and procedures for conditioning or denying permits or other approvals. (1)(a) It is department of ((general administration)) enterprise services policy to avoid or mitigate adverse environmental impacts which may result from the department's decisions.

(b) The department shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources so that the state and its citizens may:

(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington, safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve important historic, cultural, and natural aspects of our national heritage;

(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The department shall develop plans and programs to economically house state government activities so as to provide maximum services to the people of Washington consistent with (b) of this subsection.

(2) Supplementary implementing instructions and procedures to the policies contained in this section are contained in department of ~~((general administration))~~ enterprise services policies and procedures.

(3) The department responsible official may:

(a) Condition the approval for a proposal if mitigation measures are reasonable and capable of being accomplished and the proposal is inconsistent with the policies in subsection (1) of this section.

(b) Deny the permit or approval for a proposal if reasonable mitigation measures are insufficient to mitigate significant adverse environmental impacts and the proposal is inconsistent with the policies in subsection (1) of this section.

(4) The procedures in WAC 197-11-660 must be followed when conditioning or denying permits or other approvals.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-10-110 Designation of responsible official.

(1) Within the department of ~~((general administration))~~ enterprise services the ultimate responsible official is the director.

(2) The director may designate the responsible official for overall direction and control of environmental reviews within the department of ~~((general administration))~~ enterprise services and the designated division shall maintain all records pertaining to SEPA related decision making processes. The division of ~~((capitol facilities))~~ planning and management shall maintain copies of all determinations of nonsignificance filed, determinations of significance filed, and copies of all environmental impact studies prepared by the agency, excluding drafts, for a period of six years. The division of facilities engineering and architectural services program shall also maintain current SEPA statutes and administrative codes; current directives and regulations; department SEPA policies, procedures, and correspondence; and blank forms for determinations, environmental checklists, and others as required.

(3) When the department of ~~((general administration))~~ enterprise services is the lead agency, the operational responsibility for determining if the department's involvement is an

"action" and if the department's "action" is "exempt" shall be controlled by the designated division.

(4) The designated division shall review and agree or disagree with all project or program exemptions, environmental checklists and determinations of nonsignificance or significance initiated within the department. In the event that there is disagreement with the initiator of the project, the decision of the responsible official, designated division, shall be final.

(5) The department's responsibilities as consulted agency will be coordinated by the designated division. When the department of ~~((general administration))~~ enterprise services is responding as the consulted agency to a draft EIS, DNS, or DS; and when specific contents of an EIS impacts a particular division of the department of ~~((general administration))~~ enterprise services, then that EIS will be sent to the affected division director for review and response. The affected division's response comments and/or recommendation will then be incorporated into the overall department response and sent to the department of ~~((general administration))~~ enterprise services responsible official for final approval.

(6) Any decision of the responsible official, designated division, shall be final until such time as it is superseded by the director, department of ~~((general administration))~~ enterprise services.

(7) The final threshold determination of final EIS of the responsible official may be appealed to the director of the department of ~~((general administration))~~ enterprise services within thirty days of notice of such determination or final EIS.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-120-260 Standards for operations—State risk manager—Expense and operating cost fees. (1) The state risk manager shall fix state risk manager assessment fees to cover expenses and operating costs of the state risk manager's office in administering chapter 48.64 RCW. Such fees shall be levied against each joint property and liability self-insurance program regulated by chapter 48.64 RCW. Services covered by the state risk manager fees will include program reviews, monitoring and continuing oversight.

(2) The state risk manager fees shall be paid by each joint self-insurance program formed under this chapter to the state of Washington, ~~((office of financial management))~~ department of enterprise services within sixty days of the date of invoice. Any joint self-insurance program failing to remit its fee when due is subject to denial of permission to operate or to a cease and desist order until the fee is paid.

(3) A joint self-insurance program that has voluntarily or involuntarily terminated shall continue to pay an administrative fee until such time as all liabilities for unpaid claims and claim adjustment expenses and all administrative responsibilities of the joint self-insurance program have been satisfied.

(4) The state risk manager shall assess each prospective joint self-insurance program an initial investigation fee at a rate determined annually by the state risk manager. Such fee shall be sufficient to cover the costs for the initial review and approval of that self-insurance program.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-130-001 Authority. Pursuant to the authority granted by RCW (~~(43.19.19361, 43.19.19368)~~) 43.19.760, 43.19.781, and 43.17.060, the director of the department of (~~(general administration)~~) enterprise services establishes the following risk management standards to be followed by all state agencies on flood mitigation.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-130-013 Definitions. (1) "Agency" or "agencies" as used in this section means all Washington state agencies, boards, commissions, and all state institutions of higher education.

(2) "Development" means any man-made change to improved or unimproved real estate(;) including, but not limited to: Buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(3) "Facility" means something built to serve a particular function other than a structure.

(4) "New construction," for flood plain management purposes, means structures for which the start of construction commenced on or after the effective date of this regulation, WAC (~~(236-100-001 through 236-100-016)~~) 200-130-001 through 200-130-016.

(5) "Property" or "properties" refer to state-owned developments, structures, facilities, and/or the contents of the structure in which the state has an interest.

(6) "Risk manager" means the (~~(assistant director of the office of risk management)~~) state risk manager, department of (~~(general administration)~~) enterprise services, or his/her designee.

(7) "Special flood hazard areas" refers to areas subject to inundation by a flood having a one percent or greater probability of being equaled or exceeded during any given year. This flood, which is referred to as the one hundred-year flood or the base flood, is the national standard on which the flood plain management and insurance requirements of the National Flood Insurance Program are based. Special flood hazard areas and one hundred-year flood plains are identified on flood insurance rate maps developed and issued by the Federal Emergency Management Agency.

(8) "Structure" means a walled and roofed building, including any gas or liquid storage tank, (~~(that)~~) which is principally above ground and affixed to a permanent site.

(9) "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the fair market value of the structure either:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-130-014 Responsibilities of each state agency. (1) Each state agency is responsible for reducing the

liability and costs associated with flood damage to its state-owned property, both real and personal;

(2) When a proposal or project is initiated for the acquisition, development, and/or the construction of state-owned structures or facilities, the agency initiating the proposal shall determine the flood plain exposure and the fiscal impact of locating state-owned properties within special flood hazard areas;

(3) If the project or proposal for development, new construction, or substantial improvement is within a one hundred-year flood plain and/or special flood hazard area, then the initiating agency must include such information in its funding request to the office of financial management and shall include a statement that the project or proposal meets the requirements of WAC (~~(236-100-015)~~) 200-130-015 or shall include a copy of the written exemption granted by the state risk manager; and

(4) It is the responsibility of each agency to establish and issue the necessary policies or procedures to assure that these flood plain management standards for state-owned and leased properties are carried out within their respective agency.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-130-015 Flood mitigation standards. (1) When planning the location, acquisition, and/or construction of state-owned developments, structures, or property, one hundred-year flood plains and special flood hazard areas, as identified on flood insurance rate maps or by other available sources, shall be avoided whenever feasible.

(2) If it is necessary to locate, acquire, and/or construct state-owned developments, structures, new construction, or substantial improvements within one hundred-year flood plains and/or special flood hazard areas, agencies must then adhere to the regulations of the National Flood Insurance Program (44 C.F.R. Ch. 1).

(3) In addition to subsection (2) of this section, for all new construction and substantial improvements, both within and outside of any one hundred-year flood plain and/or special flood hazard area, the elevation of the lowest floor, including the basement, shall be at least the greater of either:

(a) One foot above the one hundred-year flood elevation;

or

(b) At the five hundred-year flood elevation.

To achieve this flood protection, state agencies shall, whenever feasible, locate structures outside of one hundred-year flood plains and special flood hazard areas rather than filling in land within one hundred-year flood plains and/or special flood hazard areas.

(4) Developments, new construction, or substantial improvements which do not meet the requirements of subsections (2) and/or (3) of this section must receive an exemption as specified in WAC (~~(236-100-016(2))~~) 200-130-016(2).

(5) For leased structures with state-owned contents, agencies shall avoid one hundred-year flood plains and/or special flood hazard areas, whenever feasible. If it is necessary for agencies to lease property within one hundred-year flood plains and/or special flood hazard areas, then such leased structure or structures and related development shall

meet the minimum requirements of the National Flood Insurance Program. Exemptions from these requirements for leased property must be obtained from the office of risk management pursuant to WAC (~~(236-100-016(2))~~) 200-130-016(2).

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-130-016 Exemptions. (1) Exemptions from the elevation requirements of WAC (~~(236-100-015(3))~~) 200-130-015(3) are granted automatically for:

(a) Facilities where their use and purpose require construction below one hundred-year flood plains and/or special flood hazard areas (e.g., fish pens, fish ladders, holding ponds, dams, etc.);

(b) Roads, bridges, and highway facilities.

(2) All other exemptions from the elevation requirements of WAC (~~(236-100-015)~~) 200-130-015 must be granted by the department of (~~(general administration)~~) enterprise services, office of risk management. Agencies seeking an exemption must submit a purpose and use statement, including an explanation of why and how the structure, development, or substantial improvement will not comply with these flood mitigation standards. This information must be submitted in writing to the Risk Manager, Department of (~~General Administration, Office of Risk Management, 303 General Administration Building, P.O. Box 40127, Olympia, Washington 98504~~) Enterprise Services, 1500 Jefferson Street S.E., MS: 41466, Olympia, WA 98504-1466. These requests will be reviewed on a case-by-case basis, and the risk manager will issue a letter of exemption no later than fourteen days after receipt of such request, if in his/her sole discretion it is appropriate to do so.

Denials of any exemptions may be appealed in writing to the Director of the Department of (~~General Administration, 218 General Administration Building, MS: AX 22, Olympia, Washington 98504~~) Enterprise Services, 1500 Jefferson Street S.E., MS: 41401, Olympia, WA 98504-1401 within thirty days of the date of the denial letter.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-001 Promulgation. Pursuant to the authority granted by (~~chapters 43.19, 46.08, 46.55, and 79.24~~) RCW 43.19.011, 46.08.150, and 79.24.720, the director of the department of (~~(general administration)~~) enterprise services hereby establishes the following regulations to govern pedestrian and vehicular traffic and parking upon state lands which are a part of the state capitol grounds. These regulations apply to (~~(vehicles owned by the state and any other governmental unit or agency as well as to privately owned)~~) all people and all vehicles.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-015 Definitions. As used in this chapter, the following terms shall mean:

(1) "Director" defined. The director of the department of (~~general administration~~) enterprise services.

(2) "Impound"/"impoundment" defined. To take and hold an unauthorized vehicle in legal custody at the direction of the director or designee, subject to the procedures outlined in this chapter and in chapter 46.55 RCW. Such definition includes towing of an unauthorized vehicle.

(3) "Presiding officer" defined. Pursuant to RCW 34.05.-485, a "presiding officer" is an individual(s) who is appointed by the director to preside over administrative hearings and render a decision regarding the suspension or revocation of parking privileges and removal, suspension, or revocation from parking waiting list under this chapter.

(4) "Reviewing officer" defined. Pursuant to RCW 34.05.491, a "reviewing officer" is an individual(s) who is appointed by the director to review the decisions by the presiding officer and is authorized to grant appropriate administrative relief upon review.

(5) "State capitol grounds" defined. Those grounds owned by the state and otherwise designated as state capitol grounds, including the west capitol campus, the east capitol campus, Sylvester Park, the Old Capitol Building and Capitol Lake, ways open to the public and specified adjoining lands and roadways.

(6) "Unauthorized vehicle defined." An "unauthorized vehicle" is a vehicle which is parked for any length of time on state capitol grounds and:

(a) Does not display the permit required for that area; and/or

(b) Is not otherwise authorized to park in that area; and/or

(c) Is parked in a metered parking area for a consecutive period longer than the time permitted for parking in that area; and/or

(d) Is parked in a metered parking area with insufficient payment to use the space it occupies; and/or

(e) Is parked in a parking space designated for disabled individuals and such vehicle does not display a valid special license plate or placard; and/or

(f) Is parked in a parking space reserved for use by another vehicle; and/or

(g) Is parked in an area not designated for parking.

(7) "Vehicle" defined. All mechanical transportation devices defined as vehicles in the motor vehicle laws and of the state of Washington including motorcycles and motor-driven cycles.

(8) "Way open to the public defined." Any road, alley, lane, parking area, parking structure, path, or any place private or otherwise adapted to and fitted for travel that is in common use by the public with the consent expressed or implied of the owner or owners, and further shall mean public play grounds, school grounds, recreation grounds, parks, park ways, park drives, park paths.

(9) "Employee defined." Any person assigned to a state facility, including state employees and the staff of vendors, concessionaires, contractors and consultants, who are performing duties that are similar to the duties of state employees or that are in direct support of the state agency functions performed at the facility.

(10) "Disabled defined." Any person who has made application to the department of licensing (~~(in accordance with WAC 308-96A-310,)~~) and displays a valid permit (~~(in accordance with WAC 308-96A-310 and 308-96A-315).~~).

(11) "Visitor defined." Any person parking at a state facility who is not employed at that facility.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-080 Regulatory signs and directions. Pedestrians and drivers of vehicles shall obey regulatory signs posted by the director. Pedestrians and drivers of vehicles shall also comply with directions given in the control and regulation of traffic by uniformed state patrol officers and department of (~~(general administration)~~) enterprise services parking controllers. No person shall move or alter any sign, barricade or other structure used for traffic and/or parking regulation, including painted stripes or marking utilized in traffic and parking control, without the authorization of the director.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-175 Skateboarding prohibited. Skateboarding is prohibited on the state capitol grounds (~~(as defined in WAC 236-12-015(7),)~~) including, but not limited to, the streets, sidewalks, walkways, walls, raised structural elevations, east capitol campus plaza, parking structures, lots and ramps, other paved surfaces of the state capitol grounds and any other structure or part thereof.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-180 Violation—Penalty. Violation of any of the provisions contained in WAC (~~(236-12-160, 236-12-170, 236-12-171, or 236-12-175)~~) 200-200-160, 200-200-170, 200-200-171, or 200-200-175 shall constitute a traffic infraction which is subject to the jurisdiction of the Thurston County district court. Violators shall be ticketed by the Washington state patrol. The fine for violating any of these skateboarding regulations shall be twenty-five dollars.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-18003 Skating prohibited. Skating is only permitted on the state capitol grounds on streets and sidewalks as long as the skating activity does not interfere in any manner with efforts to conduct state business or pedestrian and vehicle traffic. Skating, as defined in WAC (~~(236-12-18005)~~) 200-200-18005, is specifically prohibited on stairs, curbs, walls, raised structural elevations, monuments, parking garages, ramps, railings and any structure or part thereof.

Skating activities taking place during the hours of darkness require the skater to wear reflective-type clothing.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-18007 Violation—Penalty. Violation of WAC (~~(236-12-18003)~~) 200-200-18003 shall constitute a traffic infraction which is subject to the jurisdiction of Thurston County district court. Violations shall be ticketed by the Washington state patrol. The fine for violating WAC (~~(236-12-18003)~~) 200-200-18003 shall be twenty-five dollars.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-290 Parking fees. (1) The fees for rental parking shall be set by the director (~~(of the department of general administration)~~).

(a) Adjustments to the fees may be made at the discretion of the director (~~(of the department of general administration)~~).

(b) The director will establish a fee schedule for parking spaces/areas and will (~~(keep such fee schedule on file in the director's office of the Department of General Administration, P.O. Box 41000, Olympia, Washington 98504-1000 and will)~~) make it available (~~(to any person upon request)~~) on the department's web site.

(2) In determining whether to adjust rental parking fees, the director will consider one or more of the following factors:

- (a) Parking facility costs;
- (b) Available commuting alternatives;
- (c) Change in the demand for parking facilities;
- (d) Transportation demand management requirements;
- (e) Market rates of comparable privately owned or leased property; and
- (f) Other circumstances as determined by the director, whereby a change in parking fees is necessary.

(3) The director shall provide notice to state agency stakeholders and capitol campus parkers no later than sixty days prior to any proposed rental parking fees adjustment and provide a thirty-day comment period about the proposed parking fee increases. The director shall consider the comments in adopting adjustments to the rental parking fees.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-300 Monthly parking fee payments. Agencies and nonstate personnel will be billed by the parking office. Employee rental parking fees and any and all employee parking permit fees shall be by payroll deduction. (~~(The director will designate a form which will be completed and submitted to the Office of Parking Services, P.O. Box 41025, Olympia, Washington 98504-1025.)~~) The person to whom the permit is issued, upon termination of use of such permit, shall notify the parking office prior to such termination of use.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-361 Suspension and/or revocation of parking privileges. Repeated use of assigned parking spaces by unauthorized vehicles or for nonofficial purposes or for the storage of personal property and/or the repeated transfer of parking permits from one vehicle to another and/or being a repeat offender as defined in WAC ((236-12-360)) 200-200-360 may result in the suspension or revocation of parking privileges. Violations may result in suspension and/or revocation of any permits issued to the violator and/or removal, suspension, and/or revocation from the parking waiting list for parking on state capitol grounds.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-370 Hearing rights—Suspension and/or revocation of parking privileges or removal, suspension, or revocation from parking waiting list. Any person or entity seeking to contest suspension and/or revocation of parking privileges or removal, suspension, or revocation from parking waiting list has a right to a hearing to contest the validity of those actions. Such request must be made in writing and received in the office of parking services within twenty days of the date of notice or effective date of action or such right to a hearing is forfeited. Hearing requests must be submitted to:

Office of Parking Services
Department of ((General Administration)) Enterprise Services
P.O. Box 41025
Olympia, WA 98504-1025

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-371 Hearing procedure—Suspension and/or revocation of parking privileges and removal, suspension, or revocation from parking waiting list. (1) Contested hearings held pursuant to WAC ((236-12-370)) 200-200-370 shall be conducted as brief adjudicative proceedings according to RCW 34.05.482, 34.05.485, 34.05.488, 34.05.491 and 34.05.494.

(2) Upon receipt of a written request for a hearing, the presiding officer shall provide the contesting party an opportunity to be informed of the agency's view of the matter and an opportunity to explain the contesting party's view of the matter.

(3) Within ten days of this opportunity, the presiding officer shall serve upon the contesting party and the agency, a brief written statement of the reasons for the decision. Such statement shall include notice that the contesting party may request an agency administrative review of that decision. The contesting party must request such review either orally or in writing within twenty-one days of service of the written statement. Service is deemed to be completed upon deposit in the United States mail as evidenced by the postmark.

(4) If no agency review is so requested by the contesting party, the agency may, on its own motion, review the brief

written statement of the presiding officer. Action less favorable to the contesting party may not be taken by the reviewing officer without notice to that party and an opportunity to explain that party's view of the matter.

(5) If no review is taken by the agency or by the contesting party, then the brief written statement of the presiding officer becomes the final order and no further administrative or judicial review is available.

(6) If review is requested, the reviewing officer shall give the contesting party and the agency an opportunity to present their respective views of the matter. Within twenty-one days of receipt of the request for review, the reviewing officer shall issue a final order which includes a brief statement of the reasons for the decision. The final order shall include notice of any judicial review available under the Administrative Procedure Act, chapter 34.05 RCW.

(7) Any of the time limits set forth in this hearing process may be waived by the contesting party.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-435 Camping on state capitol grounds. Camping on the state capitol grounds is prohibited unless permitted by the director ((of the department of general administration)). Camping means arranging any type of structure, shelter or bedding, or parking a vehicle, for purposes of habitation.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-200-440 Permits for demonstrations, parades, processions. In order not to disrupt the orderly flow of pedestrian or vehicular traffic on the state capitol grounds, a person or group of persons desiring to conduct a demonstration, parade or procession of seventy-five or more people on the state capitol grounds shall apply to the department for a permit using the process outlined in chapter ((236-17)) 200-200 WAC.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-210-001 Promulgation. Pursuant to the authority granted by chapters 46.08 and 43.19 RCW, the director of the department of ((general administration)) enterprise services hereby promulgates the following rules and regulations with respect to Capitol Lake and its adjoining lands and roadways.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-210-020 Motorboats—Prohibitions. The operation of all motorboats is prohibited in the area of Capitol Lake north of the railroad trestle crossing said lake unless prior written authorization is first obtained from the director of ((general administration)) enterprise services.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-210-025 Water skiing, etc.—Prohibited. Water skiing and the use of surfboards or other similar devices pulled behind a motorboat is prohibited on all areas of Capitol Lake unless prior written authorization is first obtained from the director of ~~((general administration))~~ enterprise services.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-210-030 Launching sites—Motorboat routes. All boats which shall be operated on Capitol Lake shall be launched **only** at designated launching sites approved by the director of ~~((general administration))~~ enterprise services. If a motorboat is launched at any designated site north of the railroad trestle from which a motorboat is authorized to be launched, it shall proceed to the area wherein the operation of motorboats is permitted through designated approach channels only.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-210-060 Use of roadways. All buses, trucks, cargo trailers and similar equipment which exceed a five-ton load limit and similar heavy duty vehicles are prohibited from traveling on the ~~((West))~~ Deschutes Parkway Road and other roadways posted for restrictive use. This provision shall not apply to public transportation vehicles.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-210-100 Muffling device required. The exhaust of every internal combustion engine used on any motorboat shall be muffled by an efficient muffling device or system which reasonably muffles the noise of the exhaust. The use of a cutout, bypass, or similar muffler elimination device, is prohibited, except when used by motorboats competing in a regatta, race, or other special event, or on trial runs and tuneups therefor, for which prior written authorization has first been obtained from the director of ~~((general administration))~~ enterprise services.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-210-110 Docks, floats, piers, etc.—Speed. No person shall operate any motorboat at any time on Capitol Lake at a rate of speed in excess of five miles per hour within a distance of fifty feet from the shore or from any float, dock, pier, or other similar installation bordering on or placed in Capitol Lake unless prior written authorization is first obtained from the director of ~~((general administration))~~ enterprise services.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-210-120 Application of algaecides, etc. No person shall deposit or apply in any manner any algaecide, weedicide or pesticide in the waters of Capitol Lake or to the immediate shoreline thereof, without first obtaining the prior written approval of the director of ~~((general administration))~~ enterprise services.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-010 Purpose. These rules guide the use of the public areas of the capitol buildings and grounds by the public for free speech and assembly activities, for commercial activities, and for private activities. ~~((General administration's))~~ Enterprise services' objective is to balance the conduct of government business, public access and expression, and the stewardship of the historic capitol buildings and grounds. These rules are not applicable to the conduct of government.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-020 Nondiscrimination. ~~((General administration))~~ Enterprise services will not discriminate in the application of these rules on the basis of race, religion or creed, color, national origin, age, disability, the use of a service animal, marital status, veteran's status, sexual orientation or gender identity, or political viewpoint.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-030 Definitions. For purposes of these rules, these words or phrases have the following meaning:

(1) "Activity" means one or more people gathering for a common purpose or cause.

(2) "Applicant," "I," "you" or "your" refers to any person(s) or organization(s) seeking permission to use the public areas of the capitol buildings and grounds.

(3) "Banners and signs" means pieces of material presented publicly to display a message, slogan, advertisement, or other similar information. Government-recognized flags are not considered banners or signs for purposes of these rules.

(4) "Capitol buildings and grounds" means those buildings and grounds over which the department of ~~((general administration))~~ enterprise services exercises custody and control under RCW 43.19.125.

(a) "Buildings" means enclosed buildings and adjoining structures. Buildings include, but are not limited to, the Legislative Building, the Temple of Justice, the Old Capitol Building, and the Natural Resources Building.

(b) "Grounds" means exterior spaces including, but not limited to, walkways, plazas, lawns, plantings and parks.

The grounds include such locations as the capitol campus, Heritage Park, Marathon Park, Centennial Park, Sylves-

ter Park, the surface and shores of Capitol Lake, and Deschutes Parkway.

(5) "Commercial activity" means an activity that promotes, creates, or exchanges commercial products or services. Commercial activities include, but are not limited to, advertising, fund-raising, buying or selling any product or service, encouraging paid membership in any group, association or organization, or the marketing of commercial activities. Commercial activities do not include such activities by or for government entities.

(6) "Director" means the director of the department of ~~((general administration))~~ enterprise services.

(7) "Exhibit" or "display" means an object or collection of objects presented publicly with the intention to communicate facts, a particular impression, a viewpoint or an opinion. Exhibits or displays include, but are not limited to, paintings, sculpture, ceramics, photographs, video or computer screens, informational booths and tables, or other similar objects and arrangements. Exhibits and displays do not include equipment used in the performance of medical or therapeutic services during a permitted activity, such as a blood drive, delivering flu shots, or administering a therapeutic massage.

(8) "Free speech and assembly activity" means an activity for the purpose of communicating information or ideas to others that will draw the attention, attendance, or participation of others. Free speech and assembly activities include, but are not limited to, assemblies, marches, rallies, performances, community events, press conferences, demonstrations, celebrations, ceremonies, speeches and other similar expressive activities.

(9) "~~((General administration))~~ Enterprise services," "department," "us," or "we" refers to the department of ~~((general administration))~~ enterprise services.

(10) "Permit" means a written permit issued by the department of ~~((general administration))~~ enterprise services authorizing the use of public areas of the capitol buildings and grounds as required by these rules.

(11) "Private activity" means an activity sponsored by a private individual, business or organization that is not open to the general public. Private activities include, but are not limited to, banquets, receptions, award ceremonies, weddings, concerts, dances, and seminars.

(12) "Public area" means those areas of the capitol buildings and grounds that are generally open to the public, such as a building's primary public entrance lobby; rotundas and adjoining public mezzanines; and exterior plazas and lawns. Public areas do not include offices, meeting rooms, and other work areas that are ordinarily reserved for or primarily devoted to conducting the business and operations of state government; the governor's mansion; and any area which is identified by a sign pursuant to WAC ~~((236-12-450))~~ 200-200-450 indicating that the area is not open to the public.

(13) "Service animal" means an animal, including guide dogs, trained to do work or perform tasks for the benefit of a person with a disability, as defined by applicable state and/or federal laws.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-120 What information do I have to provide? (1) On your application, you must provide the following information:

(a) Your name, mailing address, and a current e-mail address or telephone number.

(b) Your desired date, time, duration, and location for your activity.

(c) A description of the nature and type of activity.

(d) An estimate of the number of people who will attend your activity.

(e) A description of any equipment or gear to be used for your activity.

(2) We may also require additional information, including but not limited to:

(a) Any special consideration or accommodations being requested; and

(b) Any services provided by ~~((general administration))~~ enterprise services that you will need and for which there are fees. These may include, but are not limited to, custodial services, sound or electrical equipment set-up or tear-down, or temporary amenities such as speaker stands, tents, platforms, stages, or chairs.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-140 How will ~~((general administration))~~ enterprise services make a decision on my application? First priority for the use of capitol buildings and grounds is for state government activities. If there would be no conflict with state government activities, we will process permit applications for other uses on a first-come, first-served basis.

We will also consider whether your requested activity complies with our general use requirements (WAC ~~((236-17-200 through 236-17-280))~~ 200-220-200 through 200-220-280) and any other applicable requirements set forth in this chapter.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-150 How can I appeal a denial of my application? To appeal a denial of your application, you must submit your appeal in writing to the director of ~~((general administration))~~ enterprise services within five full working days of the date of denial. Your appeal must state why you think the application was improperly denied.

The director will issue a decision on the appeal in writing within three full working days of receiving it, and this will be the final decision of the department of ~~((general administration))~~ enterprise services.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-210 ~~((General administration))~~ Enterprise services may set reasonable time, place, and manner

limits on activities. We may establish reasonable time, place, and manner restrictions for use of the public areas of the capitol buildings and grounds, according to design, health, safety, operational or other such considerations. We may make further details about such reasonable time, place, and manner restrictions available for public inspection during normal business hours or post them where appropriate. These may include, but are not limited to:

- (1) Time and duration available for use;
- (2) The maximum number of people or vehicles allowed at any particular location for any given time or period; and
- (3) Locations available for use.

We will not permit an activity that would conflict with the date, time, or location of a previously permitted activity. We may recommend to you other options for dates, times, or locations if your request would conflict with a previously permitted activity.

No exhibits or displays may be placed in, or posted or affixed to, any capitol building.

Banners and signs may be used during an activity in a capitol building only if they are handheld and not affixed to sticks or poles. We will allow you to post way-finding signs during your permitted activity, subject to reasonable time, place, and manner limits.

You may place or post banners, signs, exhibits or displays on the capitol grounds. Such items must be removed at the end of the activity. Such items must identify the sponsor and contain a disclaimer stating that the items are not owned, maintained, promoted, or supported by or associated with the state. The state assumes no liability for loss or damage to such items.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-270 ((General administration)) Enterprise services may cancel a permit. We may cancel your permit at any time if your activity does not comply with any applicable laws and rules or the terms of the permit. If your permit is canceled and you persist in your activity, you may be subject to appropriate law enforcement action.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-280 ((General administration)) Enterprise services may limit use at any time due to unforeseen operational circumstances. We reserve the right to cancel a permit or limit use of the public areas of the capitol buildings and grounds at any time due to unforeseen operational circumstances, including, but not limited to, urgent security concerns, emergency repairs, or other necessary state government activities. We will make reasonable efforts to alleviate the effects of such circumstances on permitted activities.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-310 There is no fee for free speech and assembly activity permits. There is no fee for a permit for free speech and assembly activities. However, you may be

responsible for paying for any services provided by ((general administration)) enterprise services that you will need (such as for equipment set-up or custodial services). In order to manage our services effectively, you must submit your request for our services at least five full working days prior to your activity, regardless of when you submit your permit application for your activity.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-320 ((General administration)) Enterprise services may set reasonable time, place, and manner limits on free speech and assembly activities. We may set reasonable time, place, and manner limits on free speech and assembly activities in the public areas of the capitol buildings and grounds, according to design, health, safety, operational or other such considerations. These may include, but are not limited to, limits designated by the director under WAC ((236-17-210)) 200-220-210.

Free speech and assembly activities may not exceed fourteen consecutive calendar days in duration. We may set further limits on duration in order to accommodate and manage the many activities and visitors that come to the capitol buildings and grounds.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-410 Private and commercial activities may be charged applicable fees. ((General administration)) Enterprise services will establish a fee schedule for permits for private and commercial activities and make the fee schedule available for public inspection. You are also responsible for paying for any services provided by ((general administration)) enterprise services that you will need (such as for equipment set-up or custodial services). In order to manage our services effectively, you must submit your request for our services at least five full working days prior to your activity, regardless of when you submit your permit application for your activity.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-420 ((General administration)) Enterprise services may set reasonable time, place, and manner limits on private and commercial activities. We may set reasonable time, place, and manner limits on private and commercial activities in the public areas of the capitol buildings and grounds, according to design, health, safety, operational or other such considerations. These may include, but are not limited to, limits designated by the director under WAC ((236-17-210)) 200-220-210.

Private and commercial activities may not exceed fourteen consecutive calendar days in duration.

Private or commercial sales, solicitation, or fund-raising activities are not permitted in the public areas of capitol campus buildings.

We may designate locations on the capitol grounds for private or commercial sales, solicitation, or fund-raising activities.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-220-430 ((General administration)) Enterprise services may require additional conditions for private and commercial activities. We may require additional conditions for private and commercial activities through written contract or agreement, including, but not limited to:

- (1) Liability insurance covering the applicant and the activity;
- (2) Hold harmless and indemnification provisions; and
- (3) Information on your ability to finance, plan, and manage the activity in order to protect the normal conduct of state operations, the safety of people and property, and the condition and appearance of the capitol buildings and grounds.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-230-010 Purpose and authority. Pursuant to the authority granted by section 140(3), chapter 149, Laws of 1997, the director of the department of ((general administration)) enterprise services hereby establishes the following rules governing the design and placement of major and minor works, to include commemorative works and other works of art, on state capitol grounds. The purposes of this chapter are as follows:

- (1) To ensure that major and minor works reflect subjects of lasting statewide significance for the people of Washington.
- (2) To protect and maintain open space and preserve the natural views and vistas to and from the capitol, as envisioned by the Olmsted Brothers in their 1928 plan for the Washington state capitol grounds, and to conserve options for placement of works by future generations.
- (3) To ensure that proposals for commemorative works and works of art on state capitol grounds are evaluated using a deliberate process, acknowledging the unique state capitol environment in which they are to be placed.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-230-020 Roles, responsibilities, and definitions. As used in this chapter, the following definitions and roles apply:

- (1) "Proposing entity" - Any individual or group advancing a proposal for placement of major or minor works on state capitol grounds.
- (2) "State capitol committee" (SCC) - As established in RCW 43.17.070. The state capitol committee grants final approval for all development plans for state capitol grounds including the master plan, and for the design and site of major works to be located on state capitol grounds.
- (3) "Capitol campus design advisory committee" (CCDAC) - As established in RCW 43.34.080(1):

The capitol campus design advisory committee is established as an advisory group to the capitol committee and the director of ((general administration)) enterprise services to review programs, planning, design, and landscaping of state capitol facilities and grounds and to make recommendations that will contribute to the attainment of architectural, aesthetic, functional, and environmental excellence in design and maintenance of capitol facilities on campus and located in neighboring communities.

The CCDAC is further directed in 43.34.080 (4)(e) to: ... review plans and designs affecting state capitol facilities as they are developed. The advisory committee's review shall include ... (e) Landscaping plans and designs, including planting proposals, street furniture, sculpture, monuments, and access to the capitol campus and buildings.

(4) "Director" - The director of the department of ((general administration)) enterprise services. Under RCW 43.19.125 the director "... shall have custody and control of the capitol buildings and grounds." The director provides preliminary reviews, evaluates proposals for major and minor works, and provides technical assistance to those proposing placement of major or minor works on state capitol grounds. The director approves minor works proposals.

(5) "Department" - The department of ((general administration)) enterprise services.

(6) "Washington state arts commission" (WSAC) - As established in RCW 43.46.005 through 43.46.095, and as specifically authorized in RCW 43.46.050:

The commission shall meet, study, plan, and advise the governor, the various departments of the state and the state legislature and shall make such recommendations as it deems proper for the cultural development of the state of Washington. WSAC may undertake major works on the state capitol grounds as part of its responsibilities under chapters 43.46, 43.17 and 43.19 RCW. The site selection and criteria for these works shall be developed in compliance with the provisions of this chapter.

(7) "State capitol grounds" - Those grounds as defined in WAC 236-12-015(5), as follows:

Those grounds owned by the state and otherwise designated as state capitol grounds, including the west capitol campus, the east capitol campus, Sylvester Park, the Old Capitol Building and Capitol Lake, ways open to the public and specified adjoining lands and roadways.

and including the north capitol campus, Centennial Park, the Tumwater campus and the Lacey campus.

(8) "West capitol campus" - Those state-owned grounds that constitute the state capitol grounds west of Capitol Way, including all of the grounds addressed in the 1928 Olmsted Brothers landscape plan for the state capitol grounds and the state capitol historic district, as designated in the National Register of Historic Places.

(9) "East capitol campus" - Those grounds described in RCW 79.24.500 which includes the campus area north of

Maple Park (16th Avenue) and south of 11th Avenue, east of Capital Way and west of Interstate 5 and the Interstate 5 entrance to the state capitol.

(10) "North capitol campus" - Those state-owned grounds north of the west capitol campus and west of Columbia Street, south of 5th Avenue and east of the Deschutes Parkway around Capitol Lake to the Interstate 5 bridge.

(11) "Tumwater campus" - Those state-owned grounds in the city of Tumwater bounded on the west by Interstate 5, on the north by Israel Road, on the east by Linderson Way S.W., and on the south by Airdustrial Way S.W.

(12) "Lacey campus" - Those state-owned grounds in the city of Lacey, bounded on the north by Martin Way, on the west and south by Saint Martin's Park and Saint Martin's Abbey, and on the east by the Woodland Creek protection zone.

(13) "Master plan" - The master plan for the capitol of the state of Washington. As used in this chapter, master plan includes any subcampus plans for state capitol grounds that describe in greater detail the planned development and use of the areas covered by the master plan.

(14) "Major work" - Any statue, monument, sculpture, work of art, memorial, or other structural or landscape feature, including a garden or memorial grove, of notable impact to viewers and to its surroundings. The impact of a work is defined by the combined effect of its subject matter, size, placement, and the degree to which it commands the environmental context into which it is set. Examples include the Winged Victory monument commemorating World War I, and the Tivoli Fountain. The term does not include any such item located within the interior of a structure.

(15) "Minor work" - As determined by the director, a work of moderate or minimal impact to viewers and to its surroundings, defined by the combined effect of its subject matter, size, placement, and ability to blend into or contribute to the planned character of its immediate environment. Examples include individual or small groupings of plants such as trees or shrubs, benches and other campus furnishings, historic event or site plaques, small sculptural elements and artistic works.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-230-040 Administrative requirements for major and minor works on state capitol grounds. Prior to construction, proposing entities must execute an agreement with the department of ~~((general administration))~~ enterprise services that addresses the following administrative requirements in proposals for major or minor works.

(1) All development and installation costs, including required modifications and improvements to campus roads, sidewalks and utilities, shall be provided by the proposing entity.

(2) The cost of new works shall be paid for by the proposing entity. Prior to construction or installation of an approved work, the director shall determine that the proposing entity has available sufficient funds to complete the project. The proposing entity shall also make provisions for coverage of all maintenance and repair costs throughout the exis-

tence of the work. This is commonly accomplished through an endowment fund estimated at ten percent of the original project cost, or may be set at an amount determined by the director. If a major or minor work is incorporated into a state-funded repair or improvement, an agreement will be negotiated between the proposing entity and the state specifying how the project costs including construction, maintenance and repairs will be shared.

(3) Complete conservation records that include specific information on materials and sources used in the execution, methods of fabrication, installation specifications, recommended method and frequency of maintenance, shall be provided to the state upon the completion of all new works.

Upon final placement and completion of a work that has been designed for or donated to the state for display on state capitol grounds, the state shall become sole owner of the work. The original artist or designer holds no rights to any work commissioned, donated, or purchased for display on state capitol grounds, including reproduction, access, modification, relocation, resale, etc., unless such rights are specifically allowed in formal written agreement between the director and the artist.

The state reserves the right to relocate or remove any works. Relocation planning will include consultation with the original artist and interested parties whenever practical.

Starting in 2030, following the centennial of the legislative building completion, and every fifty years thereafter, the state shall conduct a review of all monuments and memorials on state capitol grounds and recommend removal and appropriate disposition of those no longer meeting the criteria in WAC 236-18-030. The SCC shall approve all such actions.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-230-070 Guidelines for selecting designs for major works. Proposing entities must address the following guidelines in proposing a design for a major work. Formal proposals prepared by proposing entities must include a description of how the design considers and responds to each of these guidelines. ~~((GA))~~ DES, CCDAC and SCC will use the following guidelines to evaluate and recommend or approve a final design selection.

(1) Legibility and meaning. The intended message of the work shall be clear and understandable, regardless of its type or style. The work shall convey meaning of enduring value that will continue its significance for future generations.

(2) Approachability and accessibility. Works shall be designed to permit people to engage with them: To have visual clues as to their location and to get close enough to be able to read them and examine details. Because major works often are gathering points, they shall be designed to meet Americans with Disability Act standards and, when necessary, provide such amenities as seating, paving, handrails, and ramps.

(3) Materials. Materials shall be chosen for their durability, sculptural qualities, visibility, and maintainability. Consideration shall also be given to rhythm and harmony with the existing setting.

(4) Vulnerability. The design of major and minor works shall be conscious of the potential for vandalism and minimize the opportunity for intentional defacement or destruction.

(5) Climatic context. The design shall consider issues of sunlight and shade, wind, rain and the variety of Washington seasons.

(6) Evening illumination. Major and minor works may be enhanced with night illumination integral to the work's design. Such illumination shall not conflict with other works, open space, buildings and their inhabitants, and the overall landscape.

(7) Completion. Works that by their nature are not complete at the time of installation, such as those to which names or dates are to be added over time, are strongly discouraged.

(8) Text and inscriptions. Lists of any kind are discouraged. Text and inscriptions shall be meaningful to the broadest possible audience. Inscriptions and text on monuments, works of art and related plaques shall be limited to interpretive information about the work itself or the subject it commemorates. Dedication plaques shall be limited to name of the artist or designer, name of the proponent group, and the date completed or dedicated. The proposed use of donor tiles not defined as plaques shall be approved as part of the overall design of a work.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-230-080 Procedure for development and review of major works proposals. The department and the state capitol committee will follow a procedure for reviewing and evaluating major works proposed for placement on state capitol grounds, with the advice and assistance of the capitol campus design advisory committee and the Washington state arts commission. As appropriate, the department may also consult with the office of archeology and historic preservation of the state department of community, trade and economic development, and with the department's state facilities accessibility advisory committee.

(1) The purpose of the procedure is to:

(a) Ensure that major works on state capitol grounds are carefully selected, designed, constructed and located to meet the criteria established in WAC 236-18-030 and address the guidelines provided in WAC 236-18-060 and 236-18-070;

(b) Preserve open space as a complete, precious and protected landscape feature of the state capitol grounds that invites public recreation and participation;

(c) Preserve options for placement of works on state capitol grounds for future generations. To further this purpose the department and the SCC shall:

(i) Encourage those proposing commemorative works to consider alternatives to monuments, such as groves, gardens, sculpture, fountains, and the naming of existing campus features;

(ii) Strongly encourage groups with related or similar interests to combine their proposals;

(iii) Encourage proposing entities to consider temporary works, or to consider temporary placement on state capitol grounds of works to be permanently located at other sites;

(iv) Cooperate with local authorities to develop opportunities for proposed works of significance to Washington state citizens which may be located outside the west campus of the state capitol grounds but within the capital community of Olympia, Tumwater and Lacey;

(d) Provide instructions to guide proposing entities in developing successful major works proposals.

(2) The procedure for development and review of major works proposals will follow the steps below.

1. Proposing entity.

a) Submits a preliminary proposal to the director for the development and placement of a major work on state capitol grounds. The preliminary proposal must describe:

- The concept and subject matter;

- How the proposal meets the criteria in WAC 236-18-030;

- Preconceived design and site considerations, if any, to include size of the work;

- A description of the kinds of activities the site and the work may need to accommodate (public gatherings or ceremonies, for example);

- Anticipated cost and planned source of funding.

b) Designates a single spokesperson for the proposing entity.

2. Department of (~~general administration (GA))~~ enterprise services (DES).

a) Provides advice and assistance as needed in understanding and addressing the criteria in WAC 236-18-030 and makes available to proposing entities a copy of the master plan.

b) Reviews the preliminary proposal to determine if it meets the criteria in WAC 236-18-030 and should proceed to step three.

c) Informs the state capitol committee (SCC) of all proposals received and reviewed.

3. (~~GA~~) DES director and spokesperson for the proposing entity.

Provide an initial briefing to the members of the SCC on the preliminary proposal. The purpose of this briefing is to identify threshold issues or concerns with the proposing entity's concept, subject, or siting considerations. Capitol campus design advisory committee (CCDAC) members shall also receive initial briefings at this time.

4. SCC.

a) Grants approval to proceed with site selection (step 5); or

b) Denies approval; or

c) Refers the proposal to the CCDAC for review and advice; and/or

d) Requests that the proposing entity reconsider aspects of their proposal.

5. Proposing entity.

Once preliminary proposal has been approved by the SCC, describes the conditions and characteristics of the proposed work that may affect its location, developing a set of criteria that describe a preferred setting and design. In the case of existing works, the criteria will relate only to the setting for the work.

6. (~~GA~~) DES.

a) Reviews appropriate subcampus plans to identify planned sites meeting the criteria developed by the proposing entity. ((GA)) DES will consult with the proposing entity, and may provide a campus tour, discuss possible locations, and point out any constraints or barriers to various locations.

b) Selects a short list of sites that best meet the criteria.

c) Establishes specific design and site development guidelines for each site. These specific guidelines describe in greater detail the opportunities or restrictions on design development that are unique to each site.

7. CCDAC and WSAC.

Review selected sites and the development guidelines established by ((GA)) DES. CCDAC and WSAC may meet together or separately. Either body may:

a) Recommend revisions to ((GA's)) DES' site development guidelines; or

b) Recommend that the proposing entity reconsider aspects of their preliminary proposal; or

c) Offer recommendations for consideration by the SCC.

8. ((GA)) DES director and spokesperson for the proposing entity.

a) Brief the SCC on the sites and site development guidelines.

b) If the proposal is for a work yet to be selected or designed, the proposing entity also describes:

- The selection/design process to be used;
- Anticipated budget and source of funding; and
- Preconceived design considerations within the context of the proposed sites.

9. SCC.

a) Grants site approval and, if the proposal is for placement of an existing work, authorizes the department to acquire the work; or

b) Requests further consideration by ((GA)) DES and CCDAC.

10. Proposing entity.

a) Once the site has been approved by the SCC, begins a process to design or select the work if the proposed work is yet to be selected or designed. This step may take several forms: A design competition; selection from a list of appropriate available works; selection of an artist or team which might include an artist, architect, or landscape architect who will design and produce a custom work. ((GA)) DES may provide assistance in this process. One representative of the department and one representative of the CCDAC shall be included in the proposing entity's selection process and final selection committee. The proposing entity is also encouraged to include a visual artist or other design professional as appropriate.

b) Selects final design proposal or proposes a completed work.

c) Submits a formal proposal to ((GA)) DES and the SCC that describes:

- How the proposal meets the criteria in WAC 236-18-030;
- How the proposal considers and responds to the guidelines provided in WAC 236-18-060 and 236-18-070;
- How the proposal addresses the administrative requirements of WAC 236-18-040; and

• Scale drawings or illustrations. A scale model may also be provided.

11. CCDAC, WSAC.

Review the formal proposal, meeting together or separately, and make recommendations to the director and to the SCC.

12. ((GA)) DES director and spokesperson for the proposing entity.

Present the formal proposal to the SCC for approval.

13. SCC.

a) Grants final approval; or

b) Requests that the CCDAC, WSAC, and ((GA)) DES director continue to work with the proposing entity to redevelop the proposal.

c) May require future check points.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-330-010 Purpose and authority. This chapter of the Washington Administrative Code is adopted pursuant to chapter 98, Laws of 1982, which requires the director of the department of ((general administration)) enterprise services to adopt by rule a procedure to prequalify contractors for inclusion on a small works roster established by the state agencies enumerated in section 2, chapter 98, Laws of 1982. The procedure set forth in this chapter shall be utilized by those agencies in establishing a small works roster.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-330-030 Contractors application form—Information required. Contractors desiring to be included on a small works roster established by a state agency pursuant to chapter 98, Laws of 1982, shall submit a completed application form on a form prescribed by the director, department of ((general administration)) enterprise services. Copies of the form may be obtained from the division of engineering and architecture and will contain the following information:

- (a) Name of contracting firm, including designation as corporation, partnership, sole proprietorship, or otherwise;
- (b) Address of contracting firm;
- (c) Telephone number of contracting firm;
- (d) State contractor's license number;
- (e) Indication of type of construction firm by categories enumerated; on the form.

(f) State of Washington department of revenue tax number;

(g) An indication of those counties in which the contractor is interested in being considered for projects;

(h) Indication whether contractor is certified as a minority or women's business enterprise pursuant to chapter 326-20 WAC.

Upon receipt of the application, the agency shall enter the information set forth therein into its small works roster, and send a copy of the information which is entered to the applicant contractor. Contractors should not consider themselves to be enrolled in a small works roster until they have received this verification.

It is the responsibility of the contractor to notify the agency of any incorrect information set forth on the notice of verification, and to notify the agency of any change in the information set forth in its application as such changes may occur from time to time.

Chapter 200-360 WAC

~~((OFFICE OF STATE PROCUREMENT))~~ SURPLUS PROPERTY OPERATIONS

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-360-015 Surplus property—Exceptions to disposal priorities. Excess and/or surplus property may be disposed of without offering to other state agencies if the director of ~~((general administration))~~ enterprise services determines that it is in the best interest of the state. In this event, the following guidelines will apply:

(1) Items will be transferred or sold for reasonable cost if practical.

(2) Items for which a reasonable cost cannot be obtained will be donated to a nonprofit organization (which is registered under state law and exempt from federal income tax liability) with an ongoing equipment rehabilitation program.

(3) Recipients of donated items, if not designated by the director of ~~((general administration))~~ enterprise services, will be determined by ~~((state))~~ surplus property operations.

(4) Successful donees will be notified by ~~((state))~~ surplus property operations and removal will be the responsibility of the donee.

(5) Items that can be documented to have a higher overhead cost than can be realized from their sale, can, at the discretion of the director of ~~((general administration))~~ enterprise services, be scrapped or dumped if there is not an acceptable donee organization available.

(6) All surplus actions, including those described in the regulation, will require submittal of ~~((the appropriate surplus document form to general administration))~~ a property disposal request to enterprise services.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-360-020 Surplus property—Intent of state surplus priorities. Surplus property purchased, transferred or donated pursuant to the priorities of WAC ~~((236-48-190))~~ 200-360-010 (1) through (5) is intended for the sole use of the purchaser, transferee or donee. Entities with priority under WAC ~~((236-48-190))~~ 200-360-010 (1) through (5) shall not profit from the immediate resale of surplus property.

The director of ~~((general administration))~~ enterprise services may take action against accounts in arrears or priority buyers who do not comply with the intent of this section. An account is in arrears when it is sixty days past due or ninety days past issuance of invoice. Such action includes, but is not limited to, cancellation or suspension of shopping privileges, cancellation or suspension of priority shopping status.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-360-040 Guarantee of quality, etc., state responsibility for—Surplus property. All sales of surplus property are "as is," and the state takes no responsibility for and makes no guarantees with respect to items sold: Provided ~~((;))~~ that the state shall make a statement of the condition of the merchandise, including major known defects, before sale. No sale shall be invalid due to defects discovered after sale which may have been discovered by a reasonable inspection of the property before sale.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-500-030 Approval of distinctive insignia. Agencies may request approval of a distinctive insignia ~~((for use))~~ for use in lieu of the state seal in marking vehicles. A standard decal must include the words "State of Washington," agency's name and "for official use only." The request for approval shall be sent to ~~((the))~~ the director of ~~((general administration))~~ enterprise services. A scale drawing in color, or other example, shall accompany the request. The director or designee will approve or deny the request ~~((and))~~ and notify the agency.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-500-040 Exceptions to marking requirements. (1) Requests for exceptions shall be forwarded to the director of ~~((general administration))~~ enterprise services by the head of the agency owning or controlling the vehicle. Requests for exceptions normally will not be granted unless the vehicle is used more than 50% of the time for law enforcement, confidential public health work, public assistance fraud or support investigative purposes.

(2) Vehicles leased or rented on a casual basis for a period less than ninety days and not issued a state exempt license plate need not be marked.

(3) Vehicles issued confidential license plates under the provisions of section 2, chapter 169, Laws of 1975 1st sess. and chapter 46.08 RCW, are exempt from marking requirements.

REPEALER

The following chapters of the Washington Administrative Code are repealed:

Chapter 200-350 WAC Facilitation of private investment in energy conservation for state-owned facilities

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

The following chapters of the Washington Administrative Code are repealed:

Chapter 200-400 WAC Energy efficiency services account

Reviser's note: The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.