

WSR 12-19-080
EXPEDITED RULES
ENVIRONMENTAL AND
LAND USE HEARINGS OFFICE
 (Growth Management Hearings Board)
 [Filed September 18, 2012, 11:48 a.m.]

Title of Rule and Other Identifying Information: Growth management hearings board—Administration of the board.

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 Growth Management Hearings Board (GMHB), Environmental and Land Use Hearings Office (ELUHO), P.O. Box 40953, Olympia, WA 98504, AND RECEIVED BY November 30, 2012.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To correct address, e-mail address and phone contact information. Removal of a duplicative sentence. Clarification of number of board members and service by telefacsimile.

Reasons Supporting Proposal: These technical changes will ensure accurate and up-to-date information about administration of the GMHB.

Statutory Authority for Adoption: RCW 36.70A.270(7).

Statute Being Implemented: Chapter 36.70A RCW.

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

Name of Proponent: Nina Carter, GMHB administrative officer, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nina Carter, 1111 Israel Road S.W., Suite 301, Tumwater, WA 98501, (360) 664-9170.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The board is making these technical changes after collocating its office within the ELUHO. The old office was in downtown Olympia and now it is in Tumwater. Also, the board needed to correct the number of board members and to supply the public with a fax number.

September 17, 2012

Nina Carter
 GMHB Administrative Officer
 Kathleen D. Mix
 ELUHO Director

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-015 Regional panels. (1) Each petition for review that is filed with the growth management hearings

board shall be heard and decided by a regional panel of growth management hearings board members. From the seven board members, regional panels shall be constituted as follows:

(a) Central Puget Sound region. A three-member Central Puget Sound panel shall be selected to hear matters pertaining to cities and counties located within the region comprised of King, Pierce, Snohomish, and Kitsap counties.

(b) Eastern Washington region. A three-member Eastern Washington panel shall be selected to hear matters pertaining to cities and counties that are required or choose to plan under RCW 36.70A.040 and are located east of the crest of the Cascade mountains.

(c) Western Washington region. A three-member Western Washington panel shall be selected to hear matters pertaining to cities and counties that are required or choose to plan under RCW 36.70A.040, are located west of the crest of the Cascade mountains, and are not included in the Central Puget Sound region. Skamania County, if it is required or chooses to plan under RCW 36.70A.040, may elect to be included within either the Western Washington region or the Eastern Washington region.

(2)(a) Each regional panel selected to hear and decide cases shall consist of three board members, at least a majority of whom shall reside within the region in which the case arose, unless such regional members cannot sit on a particular case because of recusal or disqualification, or unless the board administrative officer determines that there is an emergency including, but not limited to, the unavailability of a board member due to illness, absence, vacancy, or significant workload imbalance.

(b) The presiding officer of each case shall reside within the region in which the case arose, unless the board administrative officer determines that there is an emergency.

(c) Except as provided otherwise in (d) of this subsection, each regional panel shall:

(i) Include at least one member admitted to practice law in this state;

(ii) Include at least one member who has been a city or county elected official; and

(iii) Reflect the political composition of the board.

(d) The requirements of (c) of this subsection may be waived by the board administrative officer due to member unavailability, significant workload imbalances, or other reasons.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-060 Board office. (1) The administration of the board is consolidated in one office - The office of the growth management hearings board:

Growth Management Hearings Board
 ((319 7th Avenue S.E., Suite 103))
 1111 Israel Road S.W., Suite 301
 ((Olympia)) Tumwater, WA 98501
 P.O. Box 40953
 Olympia, WA 98504-0953
 ((360-586-0260)) 360-664-9170
 ((360-664-8975)) 360-586-2253 Fax

e-mail: ((eastern@ew.gmhb.wa.gov))
eastern@eluh.wa.gov
 e-mail: ((western@ww.gmhb.wa.gov))
western@eluh.wa.gov
 e-mail: (([central@eps.gmhb.wa.gov](mailto:centeral@eps.gmhb.wa.gov)))
[central@eluh.wa.gov](mailto:centeral@eluh.wa.gov)
 web site: www.gmhb.wa.gov

(2) The filing of all petitions, briefs, exhibits, and other documents related to any proceeding before a regional panel shall be made to the office of the growth management hearings board, with specific indication of the appropriate regional panel's name - Eastern, Western, or Central Puget Sound.

AMENDATORY SECTION (Amending WSR 11-13-109, filed 6/21/11, effective 7/22/11)

WAC 242-03-115 Authorized representatives. (1) Notice of appearance. Any person acting in a representative capacity on behalf of a party or participant shall file a notice of appearance with the board and shall serve a copy on all other parties. This requirement shall apply to attorneys as well as to other duly authorized representatives of parties. ((This requirement shall apply to attorneys as well as to other duly authorized representatives of parties.)) A person listed in a petition for review as representing petitioners need not file a notice of appearance.

(2) Substitution. In the event of a change in representative or attorney, a notice of substitution must be filed with the board and a copy served on all other parties before the change in representative shall become effective.

AMENDATORY SECTION (Amending WSR 12-05-110, filed 2/22/12, effective 3/24/12)

WAC 242-03-230 Petition for review—Filing and service. (1) Filing a Petition for Review. A petition for review shall be filed with the board by electronic mail, as provided in WAC 242-03-240, unless a petitioner does not have the technological capacity to do so. The original and three copies of the petition for review shall be filed with the board personally, or by first class, certified, or registered mail. Filings may also be made with the board by telefacsimile transmission as provided in WAC 242-03-240. A petition for review is deemed filed on the date the board receives it by electronic mail or by telefacsimile transmission by 5:00 p.m. provided that the original and three copies are postmarked and mailed on the same date as the electronic filing. See WAC 242-03-060 for contact information.

(2) Service of petition for review.

(a) A copy of the petition for review shall be served upon the named respondent(s) and must be received by the respondent(s) on or before the date filed with the board. Service of the petition for review may be by mail or personal service, so long as the petition is received by respondent on or before the date filed with the board.

(b) When a county is a respondent, the petition for review shall be served on the county auditor in noncharter counties and the agent designated by the legislative authority in charter counties. When a city is a respondent, the mayor,

city manager, or city clerk shall be served. When the state of Washington is a respondent, the office of the attorney general shall be served at its main office in Olympia unless service upon the state is otherwise provided by law. In a challenge to the adoption of, or amendment to, a shoreline master program approved by the department of ecology, the department of ecology shall be named as a respondent and served.

(3) Proof of service shall be filed with the board pursuant to WAC 242-03-245.

(4) The board may dismiss a case for failure to substantially comply with this section.

AMENDATORY SECTION (Amending WSR 12-05-110, filed 2/22/12, effective 3/24/12)

WAC 242-03-240 Filing and service of all other papers. (1) Filing of papers: All pleadings and briefs shall be filed with the board by electronic mail unless a petitioner does not have the technological capacity to do so. The original and three copies of all documents shall be filed with the board personally, or by first class, certified, or registered mail and must be postmarked and mailed on the same date as the electronic filing. Filings less than fifteen pages may be made by telefacsimile transmission. The original and three copies must be mailed on the same date as the telefacsimile transmission to be deemed filed.

Filings made by electronic mail and/or telefacsimile transmission shall be deemed filed upon actual receipt during office hours of 8:00 a.m. to 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated by the board's telefacsimile machine or receiving computer shall be presumptive evidence of the date and time of receipt of transmission. All papers will be deemed filed with the board on the date received by electronic mail provided that the original document and three copies are mailed and postmarked on the same date as the telefacsimile transmission or electronic mail filing. See WAC 242-03-060 for contact information.

(2) Service: Parties shall serve copies of all filings on all other named parties by electronic mail, on or before the date filed with the board, unless a party lacks technical capability. Service is accomplished when the document is transmitted electronically, or, by agreement among the parties or exception granted by the presiding officer, is deposited in the mail and postmarked by the required date.